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S/1998/946
14 October 1998

ORIGINAL: ENGLISH

LETTER DATED 13 OCTOBER 1998 FROM THE PERMANENT REPRESENTATIVE OF ERITREA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The National Islamic Front (NIF) Government of the Sudan is once again trying to peddle its usual lie that its internal war is the result of external intervention (see S/1998/922). It is obvious that its nearly two-decade effort to resolve its internal political problems by force is not going well for it, and thus its desperate attempt to hoodwink the outside world that external forces are directly involved in support of Sudanese rebel forces it has failed to vanquish.

Nothing new. What is new is that it has dropped one of its neighbours from its usual list of alleged "aggressors", indicating the unholy alliance it has struck with that country, in particular against Eritrea. There again, nothing new for Eritrea to witness. Eritrea shall prevail against the machinations of the NIF regime and its new cohorts, as well as in the defence of its national security and sovereignty.

I would like to reiterate that the NIF regime's accusations of Eritrean involvement in the internal wars of the Sudan is an outright lie being peddled to hide its internal failures and its sinister designs against Eritrea. I would further like to emphasize that Eritrea shall never be deterred by such transparently hollow and futile accusations from exposing or challenging the Sudanese regime's terrorist character and acts.

I should be grateful if you would circulate this letter as a document of the Security Council.

(Signed) Haile MENKERIOS
Permanent Representative

98-30478 (E) 141098

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(Signed) Haile MENKERIOS
Permanent Representative

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* Reissued for technical reasons.

98-30651 (E) 151098

UNITED NATIONS **S**

Security Council

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S/1998/947
14 October 1998

ORIGINAL: ENGLISH

LETTER DATED 13 OCTOBER 1998 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith a letter dated 10 October 1998 from the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina (see annex).

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

98-30497 (E) 161098

/...

Annex

Letter dated 10 October 1998 from the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

I have the honour to transmit herewith my report on the implementation of the Peace Agreement on Bosnia and Herzegovina, which covers the activities of my Office during the months of July to the end of September 1998.

I further have the honour to inform you that it is my intention to present the report to the Security Council on 26 October 1998.

(Signed) Carlos WESTENDORN
High Representative

Appendix

REPORT OF THE HIGH REPRESENTATIVE FOR IMPLEMENTATION OF THE PEACE AGREEMENT TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

JULY-SEPTEMBER 1998

1. Pursuant to Security Council Resolution 1031 of 15 December 1995, which requested the Secretary General to submit reports from the High Representative in accordance with Annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8-9 December 1995, I herewith present the eleventh report to the Council.

2. The Report covers the activities of the Office of the High Representative and developments in the areas listed below during the period from the beginning of July 1998 to the end of September 1998.

SUMMARY

3. Elections dominate: The period between July and September has been dominated by the general elections in BiH on 12/13 September, and their aftermath. The results of the elections are discussed in more detail below. But in general they represented, with one notable exception, further evidence of steady, incremental progress towards a more moderate and pluralistic political environment in BiH. The elections took place peacefully and once again drew a high turnout of around 70%, although this was somewhat lower than in previous elections. At the State level, for the first time since Dayton there is the possibility of a more constructive Presidency, with the replacement of the obstructionist Serb incumbent with a more moderate figure. The Council of Ministers and the national ministries are expected to be controlled by representatives of pro-Dayton parties. The old nationalist, mono-ethnic parties have lost ground across the board; and opposition parties have advanced and gained a number of key footholds in the BiH House of Representatives and have gained ground in the Entity parliaments. In the Federation House of Representatives, for example, the SDA has lost its overall majority; and in the RS National Assembly the SDS failed to re-gain the overall majority it lost in the election in 1997. The SLOGA coalition has signed an agreement pledging to remain in a post-election alliance and will hold the majority in the RS National Assembly if SLOGA continues to co-operate with its Federation-based partners. Negotiations on the formation of a new RS Government, which may be lengthy, began on 2 October. For the first time, the HDZ and the new NHI won seats in the RSNA. And RS based parties won representation in some Cantonal assemblies and the Federation Parliament.

4. Despite the encouraging results in the Assembly elections and for the Serb member of the BiH, State-level Presidency, the election for the RS Presidency brought the replacement of Mrs Plavsic with the leader of the Bosnian branch of the Radical Party, Nikola Poplasen. Mr Poplasen has a record as a hard-liner. As President of the RS, he nominates the Prime Minister of the RS Government, who in turn nominates the other ministers. These appointments, however, must be approved by majority vote in the RS National Assembly, where the SLOGA - Federation partnership dominates.

5. I have made clear, as have other representatives of the international community, what we shall expect of the newly elected leaders. We shall judge their performance not only by words but above all by actions, which we shall monitor closely. All leaders will be expected to act in accordance with constitutional principles and the Peace Agreement, and to work for a strengthened and united Bosnia and Herzegovina. Action that undermines, or threatens to undermine, the considerable progress made in the last year will not be tolerated. Those who work with the international community, and who comply with Dayton, will be rewarded. The international community will not hesitate to withdraw support from those who obstruct implementation. And I shall not hesitate to use my Bonn powers to take action against leaders who violate Dayton.

6. Recent progress: In spite of the inevitable focus on the elections, further progress has been achieved during the reporting period, building on the substantial progress made in the first half of 1998. This includes:

- the introduction and acceptance of the Konvertible Marka throughout the country;
the passage of a number of key laws, including the Law on Customs, and my imposition of the Framework Law on Privatisation, following the failure of the BiH House of Peoples to pass it;
further media restructuring designed to remove public broadcasting from political control, including the establishment of the Independent Media Commission (IMC), which started work on 1 August; continued restructuring of RTV BiH; and firm action to tackle biased coverage by HRT during the election campaign;
some further minority returns which, although limited in number, have been in key areas such as Prijedor, Gradiska, and Kotor Varos;
the signature by representatives of the Council of Ministers and SFOR of an MOU increasing the scope of civilian operations within Sarajevo airport.

7. Article 109 report: In addition, as requested in Article 109 of the declaration of the Luxembourg Ministerial meeting of the PIC Steering Board in June, I have prepared a comprehensive report on the state of peace implementation. This report, which was delivered in mid-September to Steering Board Foreign Ministers, as well as to the Secretary General of the United Nations, comprised:

- a paper setting out a strategy for the medium to long term, designed to forge a sustainable peace in BiH;
- a comprehensive report on the state of peace implementation, sector by sector, outlining progress to date, key obstacles, and the way ahead;and
- a detailed series of benchmarks for measuring progress in each area.

8. The strategy is based on five key pillars:
- democracy;
- rule of law;
- institutions;
- values and rights;
- economic reconstruction.

9. I make clear in the report that work in these areas must proceed in parallel if a self-sustaining peace is to be created. Failure to achieve progress in any one area jeopardises the whole enterprise. I also make clear that success will depend on unity of effort of the international agencies on the ground in BiH, and careful co-ordination between them. It also continues to depend on the presence of a substantial international military presence, both to guarantee a stable and peaceful overall political environment, and to support civilian implementation efforts as much as possible. I am working closely with SFOR to find ways to maximise that support and target it better.

10. Priorities for the coming months: In the immediate period between now and the end of the year, my priorities will be to:

- accelerate and reinforce the central institutions;
- press forward with minority returns and the resolution of questions of property law;
- continue police restructuring and proceed with the establishment of a State Border Police;
- continue to press forward with media reform so that broadcasting networks are rationalised and outside control terminated.

11. I shall also bring forward proposals on judicial reform in BiH, including enhanced support for the police, as well as working on new electoral arrangements as indicated above.

12. Kosovo: As I indicated in my last report, the situation in Kosovo, which has deteriorated considerably in recent months, may have an impact on peace implementation in BiH. There are, for example, already some 10,000 refugees from Kosovo in BiH, stretching already thin resources. We will need to keep the potential impact of Kosovo on BiH under close review in the coming months.

COORDINATION OF CIVILIAN IMPLEMENTATION

13. Peace Implementation Council: The Steering Board of the Peace Implementation Council (PIC) has continued to meet on a regular basis at the level of Political Directors of respective Foreign Ministries. I have also continued to convene regular meetings of the Board at ambassadorial level in Sarajevo. On 22 July, the Steering Board met in Brussels, where it discussed political developments, return of refugees and questions of property legislation, the relationship between Croatia and BiH and the issue of border police. The meeting held in Sarajevo on 8 September dealt with refugee return, media issues, Luxembourg follow-up and the preparations for the elections of 12-13 September.

14. A full meeting of the Foreign Ministers of the Peace Implementation Council will be held in Madrid in 15-16 December 1998.

15. External co-ordination: I have maintained my regular consultations with governments and organisations involved in peace implementation. I briefed the Security Council on 27 July and also met with the UN Secretary General. I have had further meetings with the Secretary General of NATO. The Contact Group met on 1 October in London to review the situation in BiH after the elections.

16. In theatre, I have continued to chair regular meetings of Principals of the key implementation agencies - UNMIBH, UN IPTF, OSCE, UNHCR as well as the Commander, SFOR. The Inter-Agency Planning Group, chaired by my Chief of Staff, continues to meet on weekly basis and is helping to tighten up on inter-agency coordination.

17. The Economic Task Force has continued to meet. So too the **Reconstruction and Return Task Force** (RRTF), which has now opened an office in Prijedor. An equivalent structure to the RRTF - the **Return Facilitation Group** - has been established in Croatia, jointly chaired by UNHCR and OSCE. My Deputy with responsibility for return issues attends its meetings.

INSTITUTIONAL MATTERS

18. Common Institutions: *The Presidency*, the *Council of Ministers* and the *Parliamentary Assembly* have continued to meet fairly regularly. But lack of political cooperation and poor administrative structures still hamper their work. My Office continues to work closely with these institutions, plus the *Standing Commission on Military Matters (SCMM),* to improve their efficiency. From October, they are all due to convene at the renovated Marijin Dvor building; the wasteful rotation of plenary sessions between the National Museum in Sarajevo and at the Electro-Technical Faculty in Lukavica will finally stop. The common institutions will, at last, be housed under one roof.

19. The Presidency held few working sessions between July and September, but met frequently with high-ranking international delegations. Working sessions focused primarily on routine issues such as appointment of Ambassadors, agrement of Ambassadors to Bosnia and Herzegovina, and ratification of international agreements. The *Council of Ministers* held several "extraordinary "sessions. The Council adopted draft legislation covering telecommunications and customs. The draft Immigration and Refugee Law was submitted to the Council on 10 July. Although it has not yet been adopted, the Council did, at the urging of the UNHCR and my Office, adopt an *Instruction on the Temporary Admission of Kosovo Refugees* on 24 September .

20. The need for reform of the structure of the Council of Ministers and its Ministries is largely accepted by all Parties. My Office is preparing recommendations to be discussed as soon as the new legislative bodies meet.

21. The *Parliamentary Assembly* met on 2 and 3 July, 22 July, and 1 and 2 September. It adopted the Law on the Seal of the Bosnia and Herzegovina, the Law on Customs Policy and numerous international agreements. It failed however, to adopt the Framework Law on the Privatisation of Banks and Enterprises and the Law on Telecommunications. I therefore decided to impose both laws on an interim basis. On 24 August, the Parliamentary Assembly formed a Secretariat at the former Parliament building, which will draw up plans to provide full parliamentary services.

22. Since my last report, the *Standing Committee on Military Matters (SCMM)* has held its 8th and 9th sessions. Significant progress has been made on a number of issues, such as cross IEBL helicopter flights. The Secretariat of the SCMM is now more or less self sufficient. Recent discussions have focused on possible reforms to enable it to work more efficiently

23. The *Constitutional Court* is preparing its next session, due on 14-15 October, 1998, which will include a public hearing on the conformity of the Constitutions of the Entities with the Constitution of BiH. Since August 1998, monthly payments have been made to the Court as part of its 1998 State budget.

24. Legislative affairs: A draft *Law on Citizenship of the Federation of Bosnia and Herzegovina* has been finalised and is to be adopted. A similar procedure will be used for drafting the equivalent law for the RS.

25. In the *Federation* the Criminal Code and Code on Criminal Procedure have been enacted. They will come into effect in the coming weeks. Training in the provisions of these Codes for judges and lawyers began in early September 1998.

26. In *Republika Srpska*, the drafting of similar Codes is nearly finished. I expect these to be submitted to the Republika Srpska National Assembly by the end of the year.

27. BiH Anthem: Scores of entries have been received for the public competition for a National Anthem of Bosnia and Herzegovina. The deadline for entries to be submitted expired on 15 August 1998. The Independent Commission for Common Symbols, which I formed, is now reviewing the entries and will select three entries which will be submitted to the Parliamentary Assembly. The Parliamentary Assembly will then be asked to choose one of the three to be the national anthem.

28. The Port of Ploce: In September, the Republic of Croatia and Bosnia and Herzegovina initialed an "*Agreement on the free transit through the territory of Croatia to and from the Port of Ploce and through the Territory of Bosnia and Herzegovina at Neum*". My Office and the US played a key role in assisting the parties to reach this agreement. The port of Ploce, which is located entirely on Croatian territory, is the sole access to the sea for BiH. 70% of cargo which passed through the port prior to the disintegration of the former Yugoslavia came from BiH. Access to this port is essential for BiH economic development. The Neum corridor separates two parts of Croatia, and without full and unimpeded access through this corridor the Croatian city of Dubrovnik, one of Croatia's major tourist areas, would be cut off from the rest of the country.

29. The agreement was initialed in Zagreb on 10 September by Hrvoje Sarinic, Chief of Staff to President Tudjman; and Nenad Porgas, Economy Minister of the Government of Croatia. It was initialed for the OHR by my Principal Deputy, Ambassador Klein, and for the US by Special Envoy Ambassador Richard Sklar, both of whom acted as mediators during the negotiations. The agreement was initialed for the Bosnian side on 9 September by President Izetbegovic, Dr Silajdzic (Co-Chair of the Council of Ministers) and Minister Kurtovic, Foreign Trade Minister. Formal signature, and publication of the details of the agreement, are matters for the parties and are expected to take place soon.

30. Special Relations between Croatia and the Federation: The Federation of Bosnia and Herzegovina and the Republic of Croatia are negotiating an "*Agreement on Special Relations (between the Republic of Croatia and the Federation of Bosnia and Herzegovina)*", as stipulated in the Constitution of Bosnia and Herzegovina. My Office has been closely involved in trying to help broker an agreement between the two sides. Sticking points remain, but I am hopeful of progress in the near future.

31. Succession issues for the Former Yugoslavia: Arrangements are being made for a further negotiating session to be held in the second half of October in Brussels. This will be preceded by a tour of Capitals by the Special Negotiator for Succession Issues, Sir Arthur Watts.

32. Brcko: The Deputy High Representative and Supervisor of Brcko continued to promote implementation of the Supplemental Award. Over 1200 Bosniac refugee and displaced families have been returned to their homes of origin in Brcko. The returns process has slowed due to difficulties with displaced persons occupying properties in potential return areas. An additional 1000 Bosniac families have been approved for return but are not yet ready to come back. More than 1000 Bosnian Croat families have been approved for return, but Bosnian Croats have yet to return in significant numbers. Slight progress has been made regarding the return of Bosnian Serb displaced persons to the Federation.

33. Members of the multi-ethnic administration are complying with the provisions of the Brcko Municipal Statute, and Bosnian Serb parties have begun to demonstrate the will to consider compromise on selected issues in dispute. Encouraged by OHR, the Mayor and his Deputies (Bosniac and Croat) are considering a restructuring of the Executive Board to increase the Board's effectiveness. Despite personnel constraints, Brcko's multi-ethnic police have demonstrated operational effectiveness and have cooperated with IPTF initiatives such as community policing. The multi-ethnic judiciary operates normally, and a process of cooperation with the Federation judiciary has begun.

34. The government, multi-ethnic police, and political parties cooperated with my Office and the OSCE in the pre-election period. For the first time since the establishment of Supervision, parties representing diverse (Serb and Bosniac) views held rallies in Brcko town proper. The polling process proceeded smoothly and peacefully.

35. International donor pledges have increased moderately. IC-facilitated credits have been disbursed, primarily to private companies, while a micro-credit facility is issuing loans to individuals. These credits have generated hundreds of jobs, but Brcko's economy, lacking investments, remains basically stagnant and lacks substantial employment opportunities. Brcko remains in critical need of investment and employment opportunities to support the multi-ethnic administration, encourage returnees, and deter the potential for social unrest.

36. Freedom of movement has continued to improve. There has been an increase in vehicular traffic in the Area of Supervision, particularly over the bridge to Croatia. Brcko's railway station was officially opened in August.

37. Federation issues: Federation issues continue to be the focus of attention of my office. Considerable efforts have been exerted to meet the conclusions of the Federation Forum of 16 April 1998

38. During the election campaign, my Office supported sanctions imposed by the OSCE on the HDZ for intimidation of other Croat parties, including by the HVO. Efforts to undermine the achievements in Central Bosnia , including attempt by HDZ hard-liners to break up the joint police force in Central Bosnia, were stymied. Progress was also made in moving the Bosniac intelligence service AID from the police station at Travnik and Bugojno. The Joint Municipal Committee for Prozor/Rama-Bugojno, established on 19 June with the assistance of my Office, has continued to meet and is proving useful.

39. Small-scale but significant returns of Bosniacs to Croat municipalities of Vitez and Prozor-Rama have continued. So too have returns of Bosniacs to the heartland of Herzegovina (Capljina, Stolac), although these have been marred recently by violence. The first breakthroughs of Serb returns to Mostar and the Neretva Valley were achieved over the summer. There was a setback in Rastani, however, in the Mostar West municipality, when a small group of Serbs attempting to return on 26 September were met with resistance by Bosnian Croats, who set up illegal roadblocks overnight.

40. Despite the successes in minority returns in Central Bosnia and Herzegovina, significant breakthroughs are still needed. The prevention of Serb returns to Rastani (near Mostar) in September/October, together with recent violence surrounding the return of Bosniacs to Tasovcici (in which one Bosniac DP was killed and three wounded), underlines the need for firm action by Croat leaders to make clear that violent behaviour and intimidation will not be tolerated. During returns on 1 October, a crowd of Croat displaced persons blocked the road and a road block was erected on the M 17 route into Tasovcici. The Multinational Specialised Unit (MSU) was deployed and in its first active involvement in crowd control cleared the road and restored freedom of movement.

41. It is worth noting that the most successful returns have been achieved in the Jajce, Bugojno and in the rest of the Vrbas valley, and have been characterised by exceptionally close cooperation between my Office, the local SFOR units, and other international agencies involved. The success of these returns may offer useful lessons for planning returns elsewhere.

42. The arrival of my resident Resident Envoy in Drvar has made a considerable difference in improving co-ordination on the ground there. It is a model which I hope will be replicated by the deployment of Special Envoys elsewhere (see section on *Municipalities* below). Returns have continued to Drvar over the summer, and freedom of movement has significantly improved.

43. Dissolution of parallel structures of the former Croat Republic of Herzeg-Bosna and Republic of Bosnia and Herzegovina remains a matter of great importance. Dismantling these parallel institutions, especially separate payments and pension systems, and cutting off Croatia's financial support to parallel institutions of Herzeg-Bosnia are the main short term targets of my office. We will maintain a clear link between economic assistance and co-operation, and we be keeping a close watch on the record of newly-elected officials. Mr. Jelavic, the new Croat member of the Presidency, has promised repeatedly that he will not tolerate HDZ officials who obstruct the implementation of Dayton; we will expect him to honour that pledge.

44. Republika Srpska issues: Regrettably, progress on peace implementation in Republika Srpska slowed between July and September. In the pre-election period, the SLOGA parties in the RS National Assembly and the Government of Prime Minister Dodik were reluctant to propose legislation on politically sensitive subjects, such as Property and Amnesty legislation, or to implement the Privatization Law. Cooperation on multi-ethnic police and the border police has been negligible. Movement on evictions to enable reinstatements, which had briefly improved, was stopped on instruction from the Ministry of the Interior. There was also a significant contravention in the Rules of the Road (the arrest of a Bosnian Croat by the RS police in September). But the Government did make serious efforts to convert its revenue and income from Yugoslav dinars into BiH Convertible marks (KM). The process of issuing passports has begun.

45. In the wake of the elections, my Office will insist on rapid progress in the following key areas: property law, returns, policing, judiciary, media; and privatisation.

46. For an assessment of the results of the elections in the RS, see the section on *Elections* below.

47. Municipalities: Article 74 of the declaration issued by the Luxembourg meeting of the Steering Board in June requested the establishment of a municipal peace implementation evaluation system, and promised staff and funding to implement these recommendations. My Office - working with the OSCE, UNHCR, ECMM and other agencies - will soon complete preliminary surveys of 29 municipalities. We will then review those surveys in order to decide in which municipalities it would be useful to place Special Envoys to promote returns and accelerate peace implementation in general. This initiative will require funding and the assignment of experienced, mature envoys, both of which depend on donors.

DEMOCRACY

48. The recent elections: 12-13 September 1998: These general elections in BiH were the most peaceful and democratic in the country's history. The turnout rate - at around 70% - was high. Technically some of the most complex elections in the world, they passed off relatively smoothly under the supervision of the OSCE. Naturally, as always, we will want to see what further lessons can be learned from experience when preparing for future sets of elections. There were problems with a number of voters' lists, but these affected less than 5% of polling stations. The police conducted themselves with professionalism. Observers from a wide range of political parties were present on both sides of the IEBL. The local election commissions, in general, carried out their tasks with dedication.

49. The results - with one notable exception - showed further evidence of a steady trend towards greater moderation and pluralism in BiH politics. The share of the vote won by extreme nationalist parties fell in both Entities. The monopoly of the three most important ethnically- based parties is weakening. And the voice of an independent, increasingly self-confident opposition in both Entities is growing.

50. For the first time since the signing of the GFAP, the nationalist parties no longer have an absolute majority in the various parliamentary bodies of Bosnia and Herzegovina. Moderate parties, supportive of the Dayton process, now have the possibility of controlling the legislative branches at all levels of government in both Entities, and at the national level. For the first time, the Presidency may have a pro-Dayton consensus. The Council of Ministers and the national ministries will probably be run by parties more committed to Dayton.

51. Time will tell whether these more hopeful prospects deliver results. But for now at least the prospects are in some respects brighter than before the elections.

52. Elections: key points: The following points are worth highlighting:

- In all races, compared to 1996, the nationalist parties have lost ground, in absolute and relative terms.

The SDP, for example, counted their seats in single digits in the 1996 elections. Following these elections, they will be in double figures.

On average in the Federation, the SDP took about 20% of the vote, performing best in Sarajevo Canton.

Newly established parties such as the New Croat Initiative (NHI) managed to offer an alternative choice to the voter. The NHI, for example, will obtain a seat in all three parliamentary bodies at the State and Entity level - in the BiH House of Representatives, in the Federation House of Representatives, and in the RS National Assembly. It has established itself as a viable alternative to the HDZ and will offer competition to the HDZ in future elections.

The new Presidency will consist of Alija Izetbegovic, Ante Jelavic and Zivko Radisic. This line-up offers a better prospect for cooperation, both with each other, and with the international community, than the previous tri-partite body.

The runner-up for the member of the Presidency was the SDP candidate Gradimer Gojer, who proved to be a serious contender in the race. The Presidency results are a further sign the process of building a state is evolving, and that new political leaders are expected to be responsible and responsive to the needs of voters.

In the Federation, RS based parties took part in the elections, unlike in 1996. These parties won seats in the Federation House of Representatives. In 1996, only six parties and coalitions were represented in the Federation House of Representatives; now 18 parties or coalitions of parties will be represented. In 1996, the SDA held 78 seats - an absolute majority. Now they will hold only 68 seats. Although they remain the largest party, they have lost their overall majority.

In the RS National Assembly, the SLOGA coalition, together with the different Federation parties, holds the majority of the seats. The SDS, which held an absolute majority of 45 seats in 1996, no longer does so. More parties are represented in the RSNA than in 1996 or 1997. The Party of Independent Social Democrats, for example, has tripled its number of seats. The decline in the nationalist parties' share of the seats which began in the 1997 elections continued this time. For the first time both the NHI and the HDZ will have representatives in the RS National Assembly.

These positive trends at the State and Entity levels were mirrored at the cantonal level. In all races, the SDA-led coalition and the HDZ lost ground. In Una Sana Canton, and in Canton 10, RS based parties will be represented in the Cantonal Assemblies. This - together with the fact that Croat based parties will be represented in the RSNA - sends a strong signal that returns are not out of the question.

53. The exception to this generally encouraging trend was the election of a candidate with a hard-line record to the post of President of the Republika Srpska. We have made clear that we will judge Mr Poplasen by his actions in the coming months.

54. Electoral law reform: Following the elections, I have now turned my attention to the drafting of an election law. My Office, in co-operation with the OSCE and the Council of Europe, is working on a draft election law which will regulate the conduct of the Presidency elections and the

elections for the Parliamentary Assembly of BiH and establish the parameters for the Entity elections. On 1 August, in co-operation with the OSCE, I appointed a commission of seven independent national experts to review the draft. I plan to have initial proposals ready for consultation with the Steering Board in November.

55. **Media reform:** Over this reporting period the objectives of my media strategy have been largely achieved. Implementation of the strategy has helped to loosen the political grip on public broadcasting, promote independent media, lay the ground for a legal framework for the media and to focus attention on pressing issues holding back the peace process. As a result, voters had access to a wider range of viewpoints than in previous elections and the media environment was significantly more benign.

56. ***SRT/RTV BIH:*** Following our ongoing intervention with SRT in Republika Srpska, our attention this summer focused on the reform of Radio Television Bosnia and Herzegovina (RTV BiH) in the Federation. Subsequent to the Memorandum of Understanding on the restructuring of RTV BiH, endorsed in June by members of the Presidency, I appointed on 8 July an international adviser at RTV BiH to assist with the restructuring of the television network, in particular to improve its current affairs programming. An interim Board of Governors, which includes the adviser, was ratified by me following nominations made by the Presidency. The multi-ethnic Board appointed a new General Manager in August and has begun preparing a proposal for a Federation TV which seeks to enfranchise the Croat community. The Board is also drafting a proposal for a public broadcasting corporation covering the whole of BiH. The Board has reported to me that the financial condition of the network is extremely difficult following the withdrawal of non-transparent financial support.

57. ***Independent Media Commission:*** Subsequent to its formal establishment in early June of this year, the Independent Media Commission (IMC) is now fully functioning. On 1 August the IMC Broadcasting Code of Practice for radio and television in BiH came into force. All broadcasters are now required to adhere to this code which is drawn from other European models and is in accordance with the BiH constitution. An appellate body, the IMC Council, which is composed of national and international members, convened for the first time in September.

58. The IMC's first decision addressed the role and activities of Croatian state television, Hrvatska Televizija (HRT), re-broadcasting in BiH. The history of this problem pre-dates the Peace Agreement when the Bosnian Croat HDZ leadership extended the reach of the Zagreb-based HRT network in the territory of BiH by using sites seized by Croat military forces. HRT became the focus of international concern prior to the recent elections due to its clear favouritism towards the BiH HDZ. Despite a series of international protests delivered to the Croatian government and HRT, the network failed to offer equitable access to other political parties and candidates as required by electoral regulations. Finally, the OSCE's Election Appeals Sub-commission ruled that HRT violated the electoral media rules and removed BiH-HDZ candidates from the party list.

59. The IMC ruled on 15 September that the legal status of Erotel, which rebroadcasts HRT in BiH, was uncertain and concluded that the use of frequencies by Erotel required IMC regulation. The IMC assumed sole custody of transmission sites and facilities and frequencies associated with these sites until such time as RTV BiH and Erotel reach an agreement acceptable to the IMC, or until another order by IMC on the issue is delivered. The IMC also warned Erotel that it had violated the IMC Broadcasting Code of Practice on several occasions and required Erotel to conform in the future fully with the Code. Constructive and unprecedented discussions between

RTV BiH and Erotel have begun under IMC auspices.

60. OBN: The Open Broadcast Network (OBN) and the Free Election Radio Network (FERN) remain the only genuine cross-entity television and radio networks which do not attempt to promote or cater to one particular ethnic community. The formation of the OBN International Trust, expansion of the network through new affiliates, acquisition of strong programming and recruitment of a more professional news and current affairs team has had a dramatic effect on audience penetration and the reputation of the OBN over the last few months. Election coverage by OBN and Radio FERN was wide ranging, offering more time than other networks for all political parties and candidates.

61. Public Service Information Campaign: Our Public Service Information Campaign (PSIC), launched to help ensure that issues rather than dogma were explored fully during the election campaign, was aired on all major networks as well as numerous smaller local stations. Two separate independent polls conducted to gauge viewer responses throughout BiH showed positive responses to the campaign. Overall, over half of those questioned believed that the reports conveyed "important information". I believe such a campaign to be a vital part of a long-term strategy for reconciliation. We are therefore seeking funding for next year's budget line to include production of more public service reports.

RETURNS

62. The right to return: return of refugees and displaced persons: Returns have been slower than hoped for so far in 1998. The UNHCR had set a target figure of 50,000 minority returns for the first six months of the year. The actual figure is closer to 15,000, but there have been some encouraging movements during the summer.

63. As outlined in the RRTF Action Plan, the primary obstacles to return remain a lack of political will on the part of the authorities, the absence of a sense of personal security for minority returnees, housing shortages, a general lack of employment opportunities, and legal and administrative problems.

64. Croatia's adoption of a new return programme on 26 June 1998 marked a further step towards the realisation of regional return. While failing to address all the issues raised at the Banja Luka Conference, the Croatian return programme is promising and may yield significant returns if implemented in good faith. Implementation structures have been established in Croatia and some results are already visible. The RRTF continues to maintain close ties with key actors in Croatia with a view to assisting in the implementation of the Return Programme and promoting cross-border return.

65. Implementation of the Sarajevo Declaration is still inadequate, although there have been some improvements. The authorities still refuse to address systematic problems in the housing allocation system, adopting a burdensome and opaque approach instead of dealing with individual cases one by one. I will review the situation at the end of this quarter and reconsider further conditionality for international assistance.

66. Cross Inter-Entity Boundary Line (IEBL) returns continue at an encouraging pace. Bosnian Serbs are returning to places like Bosanski Petrovac, Glamoc, Sarajevo, and Central Bosnia Bosniac and Croat returns are taking place into the north-western part of the Republika Srpka in

the hundreds - to places like Prijedor, Bosanska Gradiska, and Kotor Varos. This momentum is expected to continue for the next 1-2 months, as housing reconstruction programmes are completed and more accommodation becomes available. The European Commission's 1998 programme in support of return is a key factor in generating new housing space and supporting infrastructure.

67. Our priority now is to remove the obstacles preventing significant minority return to eastern Republika Srpska. I intend that the necessary property legislation be put in place quickly and that pressure be brought to bear on the new RS government. Judiciary reform, police restructuring, job creation, equal access to documentation, and return of elected councillors are required as well to achieve significant minority return.

HUMAN RIGHTS

68. Human rights violations: The number of incidents of destruction of property and violence directed at minority residents and returnees has continued to increase during this reporting period, particularly in Stolac, Klanac and Travnik. In July, a second police officer was murdered in Travnik by an explosive device which resulted in a temporary withdrawal of Bosnian Croat police officers from Travnik station. My Office is also extremely concerned by continued allegations of abuse in police custody in both Entities, including physical abuse to force confessions, abuse during arrest, harassment and ill-treatment during detention. A particularly disturbing incident has resulted in the decertification of the Republika Srpska Chief of Uniformed Police in connection with seven individuals allegedly held in hidden detention and physically mistreated for nine days in Pale.

69. My Office is also extremely concerned by the continued failure of the authorities to ensure that the decisions and recommendations of Human Rights Chamber, the Human Rights Ombudsperson and the Commission for Real Property Claims (CRPC) are implemented. The Republika Srpska authorities have still failed to appoint an agent to the Annex 6 Institutions. While three individuals have been designated at the state level to act as agents, their appointment must be ratified by the Council of Ministers as an urgent priority.

70. Funding of human rights institutions: Securing adequate and stable funding for the Annex 6 and 7 Institutions is essential if these institutions are to deal effectively with growing caseloads. The stable and reliable funding from voluntary contributions have enabled important institutional developments and should be continued next year. My Office is also working with the Bosnia and Herzegovina government to ensure that it respects its funding commitments for the Institutions' 1998 budgets.

71. Property law: In light of the deliberate obstruction of implementation of the property and housing laws in the Federation, I have imposed an extension of the deadline for filing claims for a further six months. My Office will continue monitoring the claims process and, where necessary, intervene further to ensure that the property rights of refugees and displaced persons are protected. The deadline of 31 August set at Luxembourg for the Republika Srpska to adopt property consistent with the Peace Agreement was not met by the government. Following the elections, it is my highest priority to ensure that the necessary property law is put in place in the Republika Srpska.

72. Education: With the assistance of UNESCO, the Council of Europe, and the World Bank, my

Office is continuing its work on the implementation of the Textbook Review Project agreed between the Ministers of Education in May on the removal of offensive materials from textbooks in use in primary and secondary schools. The Ministers have agreed to implement the recommendations made by the expert teams for the removal of offensive materials as well as the recommendations of an Independent Commission, to be established by my Office, in cases where the expert teams are unable to reach an agreement.

73. Civil society building: My Office continues its efforts to support initiatives underway to reform the legal framework applicable to associations and foundations, and to support the establishment of an environment conducive to the development of civil society. The working version of a new draft Law on Associations and Foundations distributed in June for public discussion has been revised, based upon input received from many local non-governmental organisations in Bosnia and Herzegovina. This version will be reviewed together with the Ministries of Justice to produce a final draft acceptable and supported by both the NGO community and relevant state structures.

74. Missing Persons and Exhumations. The Joint Exhumation Process continues. The three parties continue to work well together. So far this year, over 1000 bodies have been exhumed, almost twice as many as in the previous two years combined. Resources remain a problem, however.

RULE OF LAW

75. Judicial and Legal Reform. My Office is proceeding in its work with UNMIBH, the Council of Europe and OSCE in the area of reform of the criminal justice system. Developments in this area have been encouraging, particularly with the adoption of the Criminal Code and Criminal Procedure Code by the Federation Parliament in late July. These codes, essential for effective protection of the rights and freedoms set forth in the European Convention on Human Rights, are expected to enter into force shortly. The Expert Team to reform the Criminal Law of the Republika Srpska, has submitted its drafts of the codes to the Government, and international experts have assessed the drafts as to their compliance with the Convention and other international standards. The final plenary session of Republika Srpska and international experts is expected to take place in November.

76. I remain concerned with the lack of independence and impartiality of the judiciary in both Entities. Adoption of legislation to provide for review of judicial appointments by an independent commission, and establishment of basic standards for an independent judiciary, is essential to ensuring that the appointment process is transparent and not subject to political influence. These laws must be ready for consideration by the Federation and Republika Srpska Parliaments in the early post-election period.

77. The UN Security Council endorsement of the establishment of a judicial monitoring and assessment project within UNMIBH is strongly welcomed by my Office. The information obtained through systematic court monitoring will play an essential role in informing other reform efforts which my Office coordinates, including the development of legislation regarding judges and prosecutors, and training of legal professionals.

78. Cooperation with ICTY and Rules of the Road: In June, SFOR troops detained a Bosnian

Serb under sealed indictment in Foca. Following the arrest, however, both the UN IPTF and OSCE Field Offices were destroyed by crowds protesting the action. Two Bosnian Serbs arrested by SFOR troops in July were released by the Tribunal immediately upon receiving confirmation that the arrests were made as a result of mistaken identity. Another Bosnian Serb was detained by SFOR troops in late September.

79. A serious violation of the Rules of the Road by Republika Srpska authorities occurred during the reporting period with the arrest of a Bosnian Croat before the individual's file was sent to the ICTY Office of the Prosecutor for review. Despite repeated interventions by my Office, as well as the subsequent decision of the ICTY Deputy Prosecutor that the evidence submitted by the Republika Srpska authorities in this case was insufficient, the individual remained in detention for one month in Foca prison. Republika Srpska authorities released the individual only following a decision by the Election Appeals Sub-Commission that he must be released as the arrest was in violation of the Rules and Regulations of the Provisional Election Commission.

80. **Freedom of Movement:** The implementation of the Uniform Licence Plate System and the Common Vehicle Registration Document is 99 % complete. From 30 September, all vehicles have been obliged by law to carry the new plates to travel within BiH. The introduction of the uniform plates has led to a dramatic increase in freedom of movement. Cross IEBL traffic doubled between April and July alone.

81. **Police restructuring:** The Federation Ministry of Interior was finally inaugurated during the reporting period, although deployment of minority officers remains to be finalised. Due to the pre-election climate, further progress was stalled. UNMIBH and my Office intend to reinforce our joint efforts to achieve minority police restructuring and deployment. The next three months must see serious efforts by the authorities in both Entities to comply with the deadlines set in the Luxembourg PIC Document on policing matters.

82. The draft State Border Police Law remains under discussion by an inter-agency working group including UNMIBH, SFOR, CAFAO and my Office. They are working together on a comprehensive plan for the establishment of a State Border Police, before submitting the Law to the Council of Ministers. This be will one of my main priorities in the coming months.

83. **Combating corruption:** The Anti-Fraud Unit of my Office continues to assist authorities in identifying illegal activities and in co-ordinating international efforts in the areas of government transparency, corruption and organised economic crime. The work of the Anti-Fraud Unit is based on two pillars: the development and implementation of a global and long-term strategy against corruption and assistance in the investigation and prosecution of current cases of corruption. These two pillars are complementary. While a global strategy is necessary to prepare the country for a better future, immediate action against corruption must be undertaken to show the Bosnian population, in particular the young generation, that generalized corruption is a left- over of the communist society which must be eradicated. Establishing a comprehensive anti-corruption strategy necessarily involves most aspects of economic reform as well as legal/judicial reform, institutional reform and education/public awareness.

84. In the field of customs, EC CAFAO continues its work to improve the efficiency of the administrations in both Entities, and to encourage them to work jointly against smuggling.

ECONOMIC REFORM AND RECONSTRUCTION

85. Reform of Public Utilities and Implementation of Annex 9: Regular passenger rail service was extended from Sarajevo through Mostar to Capljina. The border crossing agreement for rail traffic between Croatia and BiH was adopted by the BiH Council of Ministers and has been sent to Croatia for review and consideration. The agreement would allow the resumption of commercial rail traffic between Croatia and BiH. The Joint Railway Corporation has progressed slowly; some legal problems still have to be resolved. My Office and the chairman of the Commission on Public Corporations (CPC) are actively pursuing this matter, but they can not substitute for the various competent authorities. Regulations for inter-entity rail traffic are still to be issued by the Ministry of Civil Affairs and Communications.

86. The CPC met on 6 July 1998, in the presence of the ministers of energy of both the Federation and the RS, to discuss the possible creation of a Public Corporation for electric power transmission. The ultimate goal is to be ready for an efficient and safe power transmission when the grid in BiH is again fully operational and ready to synchronise with and other systems.

87. The instruction on the regulation of inter-Entity bus traffic was signed by the Ministry of Civil Affairs and Communications and has been published in the BiH Official Gazette. The instruction on international bus traffic has been prepared and is due to be published soon. These instructions provide guidelines for bus companies and Entity transport/traffic ministries in preparing, submitting and reviewing applications for inter-Entity and international bus routes.

88. On 11 September, I decided to put the State Telecommunications Law temporarily in force, until the BiH Parliamentary Assembly will adopt it in the same form. The Law was adopted by the Council of Ministers, but the Parliamentary Assembly adjourned its consideration of the Law until after the elections while the Law was urgently needed. Part of the decision was also to recognise the existence of the 3 operators at present providing services through the fixed public switched network. The Law establishes the Telecommunications Regulatory Agency. The EBRD will continue to provide assistance in this area.

89. Macro economic reform and transition: In the period under review, the Economic Task Force (ETF), continued to meet regularly under my chairmanship. It is still an essential tool for co-ordinating economic reform policies and international reconstruction assistance. The ETF Secretariat, operated by my Office in co-operation with IMG, informs and guides the general donor community through monthly publication of an economic newsletter and donor meetings.

90. On 28 July, the Central Bank of BiH (CBBH) put the 20, 50, and 100 Konvertibile Marka (KM) notes in circulation. The lower denominations were already introduced on 22 June. The currency is pegged to the DM in a rate of 1:1. The old Bosnian Dinar is no longer a legal currency. I passed a decision on 28 September 1998 to impose the design for the coins. Overall, the introduction can be considered as a success, but in some areas the use of the currency remains limited. My Office continues to monitor the acceptance of the KM as the legal tender of BiH and supports the CBBH in promoting the country-wide use of the currency.

91. Considerable progress is made on the implementation of the 1998 State budget. Both Entities have transferred funds to the bank account of the Common Institutions in the CBBH. Beneficiaries of the budgets of the Common Institutions have received their first payments through the official payment channels. My Office, together with the technical assistance of the US Treasury and other

organisations, will continue to make sure that the State budget is implemented according to the Law.

92. The process of liquidating the NBBH, the former Central Bank, is ongoing. To initiate the liquidation process, the liquidator ordered a freeze of NBBH assets on 16 July, but the Federation Government ordered that the freeze be ignored, which it has been to date. Some success has been achieved in certain areas of the liquidation process, including clarification of ownership of the NBBH building and paying off the claims of several thousand non-governmental depositors at face value. Much work remains to be accomplished, in particular determining how the gap between NBBH liabilities and assets will be covered.

93. Negotiations between the BiH delegation and the Paris Club of sovereign creditors, held on 23 and 24 July have not led to an agreement. An agreement with the creditors is essential for future access to international capital markets for BiH. A next round of negotiations should start in October 1998. The IMF will not be able to complete the first review under the stand-by arrangement without liquidation of the NBBH and achieving a successful debt-reduction negotiation with the Paris Club.

94. On 3 September, the Federation House of Peoples approved the Federation External Debt Law. Passage of this key law is an important step in building confidence among foreign creditors to extend loans to BiH. The law ensures that the Federation's share of repaying debts incurred by the State of BiH to foreign creditors is an unconditional liability and will be satisfied from general Federation budgetary revenues. To complete the legal framework for repayment of external debt obligations of BiH, it is now necessary for the RS to pass a law similar to the one in the Federation.

95. At its sessions of 1 and 2 September, the BiH Parliamentary Assembly adopted the Law on Customs Policy of BiH. The Law will come into force only on 1 January 1999. The Law is based on the European Customs Code. With the adoption of this Law and the Customs Tariff Law that has been in force since March of this year, the new customs legal framework is finalised. Full implementation of both Laws is a prerequisite for a unified BiH customs territory. CAFAO, funded by the EC, continues to assist the customs administrations in improving its efficiency and implementing the new legislation.

96. On 11 August, the Ministers of Trade and Finance of the RS and the Federation signed an agreement in which they committed themselves to remove obstacles to internal trade. This is another step forward in attaining freedom of movement of persons, goods, services, and capital in BiH. Even though implementation of the agreement has proven difficult, the Ministries of both Entities have recognised that from a legal point of view they cannot ignore the presence of the other Entity and that they will both benefit economically from mutual co-operation.

97. On its session of 20 August, the Council of Ministers established the BiH Agency for Statistics (BHAS), responsible for producing national statistics on economic and social indicators. The statistics will be based on data submitted by Entity statistical institutes. Establishment of the BHAS and improvement of Entities' institutes will be facilitated by the release of considerable financial assistance up to around KM 10 million from the EC, Italy, Switzerland, and Sweden.

98. The OHR-drafted Framework Law on Privatisation of Enterprises and Banks, already adopted by the Council of Ministers, did pass the BiH House of Representatives in July but was

subsequently rejected by the House of Peoples due to Serb opposition. On 23 July 1998 the Law entered into force upon my decision, on an interim basis, until the House of Peoples adopts this law in due form, without amendments and no conditions attached. In order to help the process of privatisation proceed smoothly, I have established the Privatisation Monitoring Commission, which will be operational from November 1998.

99. Reconstruction and financial help: In the last three months, up to 1 September, a considerable amount of donor funded projects have been carried out. In this period, reconstruction projects worth a total of approximately KM 150 million were completed. One should note that this does not mean that all this money was spent in this period, but that projects were finalised. Moreover, a total of half a billion KM of new reconstruction projects started, some of them being completed within the described period, most of them to be completed in the future. Of these new projects, around 30% was started in the RS, with close to 10% that benefits both Entities. This is a clear indication of increased donor effort after the government turn around in January this year.

100. On 7 July, Mostar Airport was officially opened for civilian traffic. After Sarajevo and Banja Luka, Mostar is the third airport in BiH to open for regular international air services. The opening was made possible after the Spanish Government and the EU made necessary funds available. In 1998 and 1999, the International Community will finance projects that will result in a complete re-equipment of the airport.

101. Civil Aviation: On 2 March 1998 DCA BiH signed a bilateral agreement with EUROCONTROL relating to air navigation charges. EUROCONTROL has informed Zagreb (ATSA) and Belgrade (FATCA), who had been providing temporary air traffic control in the airspace of BiH since 24 April 1997, and has been charging users of BiH airspace with effect from 6 April 1998.

102. FATCA continues to collect air navigation charges from users of the portion of BiH airspace wherein it provides air traffic control. In consequence the respective users are charged once by EUROCONTROL and once by Belgrade. This problem will be resolved when DCA signs the protocol with FATCA.

103. An Aviation Law was prepared and submitted to the Council of Ministers on 6 August 1998, which would, inter alia, give DCA the power to delegate duties and functions to the Entity Civil Aviation Departments.

104. On 11 September 1998 COMSFOR signed a letter delegating the authority and responsibility for air traffic control of BiH upper air space to DCA . DCA will need to review the letter and advise the Council of Ministers to sign it. At the moment BiH will need to contract the air traffic control services from third parties.

105. Mostar Airport , since being placed under the authority of OHR by an Arbitration Decision, was reopened for civilian traffic on 7 July 1998. The first scheduled commercial flight, operated by Croatian Airlines, took off from Mostar to Zagreb on 14 July 1998. The arbitration period has been further extended until March 1999. The new MOU for Sarajevo Airport, signed on 20 August 1998, introduced cargo operations and overnight parking for aircraft and further facilitates civil air operations in Sarajevo. Jugoslav Airlines (JAT) and Montenegro Airlines operate schedules into Banja Luka Airport. SATAIR, the first Airline of Republica Srpska, wishes to commence operations from Banja Luka once an amendment to the existing MOU, to allow for

overnight parking, is approved.

106. Demining The mine action programme has now been handed over to the authorities of Bosnia and Herzegovina, with the formal reception of the BHMAC by the Council of Ministers from the UN on 16 July 1998. The MOU between the Parties and SFOR on Humanitarian Demining by the Entity Armed Forces (EAF) was signed on 6 July 1998. The EAF now have 360 qualified deminers who have been trained at the centres in Banja Luka, Mostar and Travnik, providing a total of 45 Demining Teams.

107. The delayed EU demining programme has received unfavourable media attention in recent months, both locally and across Europe. The equipment left in storage became the focus for the media coverage, while there were no explanations for the delay forthcoming from EU officials. In August the programme was reinvigorated with the signing of a contract with the German NGO 'HELP', and is now in its planning phase. It is unlikely that any mines will be removed from the ground before the start of the next 'season' in Spring 1999.

108. The Slovenian Trust Fund is an initiative of Congress, whereby funds have been pledged on the basis that the US will match any other donation up to a maximum of $28m. An MOU has been produced by Slovenia for the Council of Ministers to consider, after which an Action Plan will need to be approved by the Demining Commission.

109. The Ottawa Treaty on the prohibition of anti-personnel (AP) mines, to which BiH is a signatory, will come into effect on 1 March 99. The EAF still hold their stockpiles of AP mines in SFOR monitored sites, and have yet to formulate the plans for their destruction. SFOR's intent is that this programme be incorporated into the EAF's winter demining campaign.

UNITED
NATIONS

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Security Council

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S/1998/948
15 October 1998
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Draft resolution

The Security Council,

Reaffirming its resolutions 1125 (1997) of 6 August 1997, 1136 (1997) of 6 November 1997, 1152 (1998) of 5 February 1998, 1155 (1998) of 16 March 1998, 1159 (1998) of 27 March 1998 and 1182 (1998) of 14 July 1998,

Welcoming the report of the Secretary-General of 25 August 1998 (S/1998/783 and Add.1) and noting the recommendations contained therein,

Stressing that the complete implementation of the Bangui Agreements (S/1998/561) and of the National Reconciliation Pact (S/1998/219, annex) is essential to peace and national reconciliation in the Central African Republic, and recognizing the significant progress made by the Government of the Central African Republic in implementing the Bangui Agreements and initiating major political and economic reforms,

Recalling the importance of regional stability and the need to consolidate the progress achieved so far, and in particular to assist the people of the Central African Republic to consolidate the process of national reconciliation and to help sustain a secure and stable environment conducive to the holding of free and fair elections,

Emphasizing that the authorities of the Central African Republic and the Mixed and Independent Electoral Commission (CEMI) are responsible for the organization and conduct of the legislative elections,

Noting with satisfaction the adoption of an operational plan for the organization of the legislative elections by the CEMI and welcoming donor pledges made in support of the electoral process,

Recognizing the importance of the support already given by the United Nations Development Programme and the United Nations Mission in the Central African Republic (MINURCA) to the CEMI in the preparation for the elections,

1. Welcomes the announcement by the authorities of the Central African Republic and the CEMI to hold legislative elections on 22 November and 13 December 1998;

2. Decides that the mandate of MINURCA shall include support for the conduct of legislative elections as described in section III of the report of the Secretary-General of 21 August 1998, and in particular:

(a) The transport of electoral materials and equipment to selected sites and to the sous-préfectures, as well as the transport of United Nations electoral observers to and from electoral sites;

(b) The conduct of a limited but reliable international observation of the first and second rounds of the legislative elections;

(c) Ensuring the security of electoral materials and equipment during their transport to and at the selected sites, as well as the security of the international electoral observers;

3. Approves the recommendation contained in paragraph 25 of the above-mentioned report of the Secretary-General regarding the provision of security during the legislative election process, taking into account the need to ensure the stability and security of Bangui and in accordance with the cost estimate associated with this recommendation contained in the addendum to that report;

4. Welcomes the establishment of a joint committee of the Government of the Central African Republic and MINURCA to address the restructuring of the Central African Armed Forces (FACA), and reiterates its call upon the Government of the Central African Republic to adopt as soon as possible a plan for the effective restructuring of its armed forces;

5. Welcomes the deployment of up to 150 FACA troops to the selected sites, operating under United Nations rules of engagement applicable to MINURCA;

6. Calls upon the Central African authorities to provide the necessary assistance, including the security arrangements, that will enable the CEMI to prepare adequately and freely for the legislative elections;

7. Urges all parties in the Central African Republic to assume fully their responsibilities in the legislative elections and to participate in them in a manner that will strengthen the democratic process and contribute to national reconciliation;

8. Urges Member States to provide the required technical, financial and logistical assistance for the organization of free and fair legislative elections;

9. Decides to extend the mandate of MINURCA until 28 February 1999;

10. Requests the Secretary-General to keep the Security Council regularly informed and to submit by 20 December 1998 the report called for in its resolution 1182 (1998) on the implementation of the mandate of MINURCA, on developments in the Central African Republic, on progress towards the implementation of the commitments expressed in the letter of 8 January 1998 from the President of the Central African Republic to the Secretary-General (S/1998/61, annex) and on the implementation of the Bangui Agreements and the

National Reconciliation Pact, including on commitments related to ensuring the country's economic recovery and the restructuring of the security forces;

11. Expresses its intention to terminate MINURCA no later than 28 February 1999, with its drawdown beginning no later than 15 January 1999, and requests the Secretary-General to make recommendations on this basis in his report referred to in paragraph 10 above;

12. Expresses its appreciation to the Secretary-General, his Special Representative and the personnel of MINURCA for their efforts to promote peace and national reconciliation in the Central African Republic;

13. Decides to remain actively seized of the matter.

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GENERAL ASSEMBLY
Fifty-third session
Agenda items 20, 105 and 110

SECURITY COUNCIL
Fifty-third year

STRENGTHENING OF THE COORDINATION OF HUMANITARIAN AND DISASTER RELIEF ASSISTANCE OF THE UNITED NATIONS, INCLUDING SPECIAL ECONOMIC ASSISTANCE

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES: QUESTIONS RELATING TO REFUGEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS

HUMAN RIGHTS QUESTIONS

Letter dated 12 October 1998 from the Permanent Representative of Eritrea to the United Nations addressed to the Secretary-General

At a time when the international community is commemorating the fiftieth anniversary of the Universal Declaration of Human Rights, the Government of Ethiopia is continuing its gross violation of the human rights of Eritreans and Ethiopians of Eritrean origin residing in Ethiopia.

In this regard, I have the honour to transmit an independent investigation report by Ms. Natalie S. Klein of Yale Law School covering the period from June to August 1998 (see annex). I wish to bring to your attention that the number of deportees (Eritreans and Ethiopians of Eritrean origin) has risen to over 25,000 since the release of the report and is increasing daily.

I should be grateful if you would circulate the present letter and its annex as a document of the fifty-third session of the General Assembly, under agenda items 20, 105 and 110, and of the Security Council.

(Signed) Haile MENKERIOS
Ambassador
Permanent Representative

/...

98-30520 (E) 161098

ANNEX*

MASS EXPULSION FROM ETHIOPIA

Report on the Deportation of Eritreans and Ethiopians of Eritrean origin from Ethiopia, June – August, 1998

by

Natalie S. Klein

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* Being circulated in language of submission only.

During June, July, and August of 1998 more than twenty thousand individuals of Eritrean national origin have been deported from Ethiopia by that country's government in a deliberate program of mass expulsion. Most of these individuals are Ethiopian citizens and the remainder are Eritrean citizens temporarily but legally present in Ethiopia. These expelled were never charged with any crime. They were held for up to three months in prison, then put on buses, driven to the border, and told to walk across. Farmers in northern Ethiopia have been forced from their traditional lands on a few hours notice and ordered to leave for Eritrea on foot. Unknown numbers remain in Ethiopian detention camps, and those who still temporarily retain their freedom in Ethiopia have been required to register as "Eritrean" with the Ethiopian government.

Massive violations of human rights have taken place in the course of this program of mass deportation. In addition to the fact that the deportees were never afforded due process before their expulsion, all of their property has been effectively confiscated. While in prison, they have had to provide their own food and water, and some have been held, manacled, in solitary confinement or in overheated shipping containers. Families have been torn apart, with those children who accompany parents into exile suffering the same conditions of confinement and with those remaining behind left to fend for themselves.

This report details sixty five personal interviews and a variety of background materials collected during a two week visit to Eritrea in August of 1998.

Report by Natalie S. Klein BA (Juris.), LL.B (Hons) (Univ rsity of Adelaide, Australia) LL.M (Yale), Barrister and Solicitor of the Supreme Court of South Australia. The author is currently a doctoral candidate at Yale Law School.

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I. INTRODUCTION

1. Overview of situation

Ethiopia's policy of mass expulsion of persons of Eritrean national origin, which rapidly resulted in the deportation of approximately twenty thousand individuals during the summer months of 1998, came about as a consequence of a brief military confrontation between the two countries in late spring of that year. In early May, Eritrea and Ethiopia clashed over certain border territories claimed by both countries, with the result being a quick Eritrean military victory but the prospect of a protracted effort by Ethiopia to reclaim the areas. At present, fighting has ceased between the two states as efforts at mediation are undertaken. Despite these attempts at the peaceful resolution of the dispute, Ethiopia commenced a policy of mass expulsion of Eritreans and Ethiopians of Eritrean origin from Ethiopia. The majority of those deported are Ethiopian citizens and the remainder are Eritrean citizens who were legally present in Ethiopia. The Ethiopian government has not differentiated in any way between these two groups, nor has it allowed individuals wishing to prove their legal Ethiopian citizenship the opportunity to do so.

A separate, but related, problem is the Ethiopian government's establishment of detention camps. An unknown number of Eritreans and Ethiopians of Eritrean origin are currently being held in detention camps in remote parts of Ethiopia. Some of the people being held in detention camps are former fighters for Eritrea who were demobilized after Eritrean independence. Also detained are persons who performed national service in Eritrea, on the grounds that they have received military training. Generally, it appears that all young and able bodied males are thus separated and detained. It remains unclear as to whether these detainees will be detained indefinitely or if they will eventually be deported. Little is known about the conditions in these detention camps.

The people being deported – the primary focus of this report – are typically not demobilized fighters or young people who have completed national service. Instead, the deportees include children who are alleged to have participated in tree planting programs

in Eritrea; women accused of supporting the Eritrean government; men and women said to have taken part in Eritrean community groups lawfully formed in Ethiopia; and elderly people who voted in the referendum for the independence of Eritrea. If people have "helped Eritrea in any way," to use the phrase of an Ethiopian Embassy official in Eritrea, they are expelled. Since no attempt is ever made to charge or prove any wrongdoing, the individuals deported assume that this category includes all those with any Eritrean ancestry or connection. According to the Ethiopian prime minister, the Ethiopian government need give no explanation; it may deport people merely because it "does not like the colour of their eyes". Indeed, numerous deportees that were interviewed affirmed that they were never given any explanation of any kind. The deportees are chosen for the simple reason that they are of Eritrean origin.

The process of deportation permits no consideration of individual circumstances prior to deportation. The deportees are subject to both discriminatory and arbitrary treatment. People have been picked up in the middle of the night, at work, or as they are leaving church. They have been given either false pretexts for accompanying police to police stations or no reason at all. A very small number of deportees have been able to approach courts to question their detention, either in person or through their family members, and these attempts at legal challenge have been unsuccessful. The length of time people have been detained has varied from three days to three months. The conditions of detention clearly violate standards of international human rights law. Deportees have been held in overcrowded prison cells and shipping containers. They are obliged to buy their own drinking water. The prisons do not provide food but instead the detainees must depend on food supplied by their family members who have not been arrested. After having been imprisoned for varying lengths of time, deportees are placed on buses and taken to one of several points on the Eritrean border. The conditions of the final portion of the journey are often harrowing. Men, women, children, and the elderly are forced to walk across battle zones, sometimes during the middle of the night, sometimes during the heat of the day, in order to reach the safety of Eritrea.

As of August 19, 1998, approximately twenty thousand Eritreans and Ethiopians of Eritrean origin have been expelled from Ethiopia and there is no indication that the number of people being deported is likely to stop. Indeed, the number of people being sent across the border is increasing every day. From August 14 to August 19, approximately 800 people were arriving along the border daily.

2. Conduct of investigation

We arrived in Eritrea on August 1, 1998 and spent two weeks investigating the situation of the deportees arriving from Ethiopia, personally interviewing a total of sixty five deportees.[1] Of these, fifty eight were selected from the large groups of deportees staying at four reception centers that we visited during this two week period. On arrival in Eritrea, the deportees are taken by government buses to the reception center closest to the point that they crossed the Eritrean-Ethiopian border. Three of these centers were temporary ones that had been established specifically for deportees in local schools while the fourth, in Tessenay, had been created several years earlier to receive refugees from Sudan. The Eritrean Relief and Refugee Commission manages these centers and registers all deportees upon arrival. Deportees receive a relief package and then are transported to the towns or villages in Eritrea with which they have ties. Deportees without families to accommodate them remain at the reception centers until appropriate arrangements can be made.

Of the four groups of deportees we interviewed, two groups of individuals remained at the reception centers because they possessed no family in Eritrea, and therefore did not know where in Eritrea they might resettle. The other two groups were still in transit to meet up with relatives at other points in Eritrea. We first met with a group of forty two people (thirty eight women and four men) who were being housed at the University of Asmara dormitories, of whom twelve were interviewed. These deportees have remained at the University as they do not have any relatives in Eritrea and therefore no place to settle. They nearly all spoke Amharic, rather than any of the Eritrean languages, and they

[1] The interviews reported below were conducted by the author with the assistance of interpreters fluent in English, Tigrigna and Amharic. The list of interviewees is included in Annex I.

ranged in age from thirteen to twenty eight years old, the majority being around nineteen years old. The second group we saw was at the Mendefera Resettlement Center. Again, the thirty eight deportees at this center, eighteen of whom were children under the age of thirteen, were those without family in Eritrea. As of August 4, 1998 (the date of our visit), 3209 deportees had passed through Mendefera (1099 women and 2120 men). The third reception center we visited was in Tessenay. We interviewed some of the one hundred and sixteen deportees who had arrived the previous day through the border town of Omhajer. The deportees were staying in Tessenay only to be registered and were then being transported to Asmara. Finally, we went to the reception center in Decamhare where deportees who had just arrived through Assab and Zalambessa were being registered before travelling to Asmara.

The remaining interviewees were seven individuals attempting to reestablish themselves as farmers in areas in the south of Eritrea. We traveled to the Badma region on the Eritrea-Ethiopia border where three hundred and sixty families that had been farming in Ethiopia have now resettled. These families had been forced off their farms south of the border, in Ethiopia, and had to cross the front lines of the military conflict on foot.[2]

Except for six interviews in Decamhare, the interviews of deportees were all conducted through a translator in Tigrigna (a main language in Eritrea) or Amharic (a primary language in Ethiopia). The other six interviews were conducted in English. All of these persons are identified below by their initials, as many individuals we met with expressed concern that if their names were published their families in Ethiopia would face retaliation.

We also interviewed, in English, the representative of 203 Ethiopians who were staying in the compound of the Ethiopian Embassy in Eritrea, located in Asmara, as well as the Ethiopian Attaché in the Embassy. Finally, a number of administrators provided us with background information and several organizations supplied us with their own reports. These included representatives of Red Cross Eritrea and the Eritrean Refugee and Relief

[2] The Badma area is currently claimed by both Ethiopia and Eritrea and is occupied by Eritreans.

Commission (ERREC) in Asmara and at the various reception centers, government officials in the Eritrean Department of Immigration and Ministry of Foreign Affairs, and three Ethiopian lawyers who had been deported to Eritrea because of their Eritrean national origin. UNICEF Eritrea and UNDP Eritrea had previously compiled reports on field trips they had taken and ERREC provided a preliminary report on the social characteristics and manner of deportation for the period of June-July 1998. Finally, Professor Asmarom Legesse's report on behalf of Citizens for Peace in Eritrea, entitled "The Uprooted: Case Material on Ethnic Eritrean Deportees from Ethiopia Concerning Human Rights Violations", assessed the situation as of the beginning of August. Any material from these sources used in this report is marked in footnotes.

The primary goal of this report is to provide first hand information on the mass expulsion of Eritreans and Ethiopians of Eritrean origin from Ethiopia. Although this report does not purport to give a detailed analysis of the legal issues involved, a brief initial synopsis of the prohibition of mass expulsion in international law and of related violations of human rights law provides context for the factual information collected. Also by way of introduction, a brief political background explains the traditional links between Eritrea and Ethiopia and how that relationship has now changed. This background clarifies the ties of nationality of the deportees to Ethiopia and to Eritrea. From this framework, Part II of the report addresses the following objectionable features of the mass expulsion: arbitrary and discriminatory selection of people for deportation; forced separation of families; confiscation of property; arrest without due process; inhumane conditions of detention; hazardous transportation to the border; continuing illegal and secretive conditions in detention camps; and violations of legally recognized diplomatic immunities. In Part III, allegations of reciprocal deportations of Ethiopians from Eritrea by the Eritrean government are discussed. Finally, recommendations are given for appropriate responses to this situation.

3. Prohibition of mass expulsion in international law

Mass expulsion is not a new phenomenon in the international system. This century has witnessed the expulsion of Armenians from the Ottoman Empire in 1915-1916 and the

expulsion of Jews from Nazi Germany in the period prior to the start of the Second World War. Asians were expelled from Uganda during the reign of Idi Amin and minority ethnic groups were expelled from the republics of the former Yugoslavia in the early 1990s. As these examples show, mass expulsion can be a precursor to even greater violations of human rights: mass extermination. Initial steps in genocidal campaigns often include the forced registration of individuals of a particular ethnicity or national origin; mass detentions; separation of the able bodied from vulnerable elderly, women and children; and wholesale confiscation of property. The stage is then set for an easy transition from a policy of mass expulsion to a policy of genocide.

These examples also have several other characteristics in common. Most importantly, mass expulsion involves the forced movement of large groups of people across international boundaries. These groups are typically targeted for expulsion because of their ethnic, religious or racial identity or because of their national origin. Discrimination is therefore a fundamental characteristic of mass expulsion. The act of expulsion is not the result of an individualized determination of guilt on the part of the expelled individual. Mass expulsion inevitably involves arbitrary treatment of the group concerned.

The legal prohibition on mass expulsion is specifically included in the regional human rights treaties of Europe[3] and Africa.[4] It is also included in Article 9 of the Universal Declaration of Human Rights: "No one shall be subject to arbitrary arrest, detention or exile."[5] This prohibition is derived from the right to freedom of movement and residence. The Universal Declaration of Human Rights provides in Article 13 that:

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[3] Article 3(1) of Protocol 4 to the European Convention provides: No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national." Protocol (No. 4) European Convention for the Protection of Human Rights and Fundamental Freedoms, Securing Certain Rights and Freedoms Other than Those Already Included in the Convention and in the Protocol Thereto, 7 ILM 978 (1986) (entered into force May 2, 1968).

[4] Article 12(5) of the 1981 African Charter on Human and Peoples' Rights states: "The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups." African Charter on Human and Peoples' Rights (Banjul Charter) OAU Doc. CAB/LEG/67/3/Rev. 5 (entered into force October 21, 1986).

[5] Universal Declaration of Human Rights, G.A. Res. 217 (III 1948) (voted on December 10, 1948).

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

These rights are reaffirmed and developed in the International Covenant on Civil and Political Rights (ICCPR),[6] which includes legal protections for aliens and also a state's nationals. The rights granted to aliens include the freedom of movement and freedom to leave any country. These rights are only to be restricted when "necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others", and when such restrictions are consistent with the other rights recognized in the Covenant. According to Article 13 of the ICCPR, unless there are "compelling reasons of national security," an alien may only be expelled following due process of law. A state's nationals have absolute protection against expulsion, for there is no "national security" exception to the rule that "[n]o one shall be arbitrarily deprived of the right to enter his own country". It is a firmly established rule of international law that a state may not deport or expel its own nationals.[7]

These generalized prohibitions are reinforced by more specific norms prohibiting the human rights violations that typically accompany mass expulsion. The targeting of a particular group for expulsion constitutes racial discrimination.[8] Discrimination denying freedom of movement and residence on the grounds of race, color or national or ethnic origin is prohibited by Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.[9] Because mass expulsions routinely involve rounding

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[6] International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (1967) (entered into force on March 23, 1976). Ethiopia acceded to the ICCPR on June 11, 1993.

[7] Louis B. Sohn & Thomas Buergenthal (eds), The Movement of Persons Across Borders 85 (1995). *See also* Jean-Marie Henckaerts, Mass Expulsion in Modern International Law and Practice 78-83 (1995).

[8] *See* Article 2, International Convention on the Elimination of All Forms of Racial Discrimination 660 U.N.T.S. 195 (entered into force January 4, 1969). Ethiopia acceded to this Convention on June 23, 1976.

[9] Article 5, International Convention on the Elimination of All Forms of Racial Discrimination reads:

> In compliance with the fundamental obligations laid down in article 2, States parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ...
>
> (d) other civil rights, in particular:

people up and imprisoning them prior to deportation[10] they violate Article 9 of the ICCPR, which states: "No one shall be subjected to arbitrary arrest and detention". Unless an expulsion is carried out with proper regard for physical health and safety of the deportees there may be a violation of the prohibition of inhuman or degrading treatment. Article 7 of the ICCPR provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The special rights to which children are entitled may also be violated through mass expulsion[11] – particularly with respect to the separation of families. Article 9 of the Convention on the Rights of the Child provides, in part: "States Parties shall ensure that a child shall not be separated from his or her parents against their will".

All of these generalized and specific norms are violated by the conduct at issue here. Ethiopia is legally bound by these norms, having recognized them by acceding to the ICCPR, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of the Child. According to the 1995 Ethiopian Constitution, "[a]ll international agreements ratified by Ethiopia are an integral part of the law of the land."[12] Moreover, the aforementioned human rights norms, relating to the freedom of movement,[13] the rights to liberty,[14] and the prohibition against

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(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including his own, and to return to one's country. ...

[10] The European Commission of Human Rights defined a collective expulsion of aliens as "any measure of the competent authority compelling aliens as a group to leave the country except where such a measure is taken after and on the basis of a reasonable and objective examination of the particular cases of each individual alien of the group". *Becker v Denmark*, Decision of the European Commission of Human Rights as to the Admissibility of Application 7011/75, 19 Y.B. Eur. Conv. on H.R. 416, 454 (1976).

[11] Article 2 of the Convention on the Rights of the Child reads:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child's parents, legal guardians, or family members.

Convention on the Rights of the Child, G.A. Res. 44/25 (entered into force September 2, 1990). Ethiopia acceded to the Convention on the Rights of the Child on May 14, 1991.

[12] Article 9, paragraph 4, Constitution of the Federal Democratic Republic of Ethiopia.

[13] Article 32, Constitution of the Federal Democratic Republic of Ethiopia.

[14] Articles 17, 19, 20, and 21, Constitution of the Federal Democratic Republic of Ethiopia.

inhumane treatment,[15] are all explicitly enshrined in the Ethiopian Constitution, as are protections for the family.[16] The Ethiopian Constitution specifically states, moreover, that the prohibition against cruel and inhuman treatment and the right to equality may not even be derogated from during times of state emergency.[17] Ethiopia's policy of mass expulsion thus violates legal rules that bind the government both domestically and internationally.

4. Political background to situation

Although the historical and political connections between Ethiopia and Eritrea are long standing and complex, the legal status of the persons currently subject to deportation can be appreciated from a summary overview of contemporary history of the region. At the end of World War II, Italy relinquished its colonial territories in Africa, of which Eritrea was one. Pursuant to a United Nations recommendation, Eritrea was federated with Ethiopia under the sovereignty of the Ethiopian crown. In the early 1960's, however, Ethiopia dissolved the federation and annexed Eritrea as a province, touching off a war of independence that lasted for thirty years. While the war effort originated with Eritreans fighting for independence, it was joined in later years by other Ethiopian groups who sought instead as their primary objective the overthrow of the existing Ethiopian government. These joint efforts were successful in 1991, at which point the Marxist-Leninist regime of Mengistu Haile Mariam was driven from power. A United Nations monitored referendum on Eritrean independence was scheduled for 1993 with the approval of the new Ethiopian government; and it resulted in a vote of over ninety nine percent in favor of independence. Since 1993, Eritrea has been an independent state.[18]

The dominant fighting force in Eritrea was the Eritrean People's Liberation Front (EPLF) which is now reconstituted as the political party, the People's Front for Democracy and Justice (PFDJ), that currently governs Eritrea. In Ethiopia, the dominant force was the EPLF's military ally, the Tigrayan People's Liberation Front (TPLF) from the Tigray

[15] Article 18, Constitution of the Federal Democratic Republic of Ethiopia.
[16] Article 34, paragraph 3, Constitution of the Federal Democratic Republic of Ethiopia.
[17] Article 93, paragraph 4, Constitution of the Federal Democratic Republic of Ethiopia.

region of northern Ethiopia. The TPLF went on after the overthrow of the Mengistu regime to form the core of the current Ethiopian government. The current border dispute between Eritrea and Ethiopia concerns the boundary between Eritrea and the Tigray region of Ethiopia,[19] so that the conflict pits the two former allies (EPLF and TPLF) against one another. Because the deportees mainly enter Eritrea by travelling north through Tigray, the deportations implicate conduct by both the central government of Ethiopia and also the regional administrators and police of the Tigray region.

Because of the many strong cultural, social, linguistic, and religious connections between the two countries – and because for forty years they were part of the same internationally recognized state – there has been constant movement and relocation from Eritrea to Ethiopia proper, and vice versa. Intermarriages are common. Although almost all of the current deportees are "Eritrean" in the sense that their families originated in the part of Ethiopia that achieved independence in 1993, each of these persons was legally a citizen of Ethiopia prior to 1991 for the simple reason that prior to the 1993 referendum no internationally recognized state of Eritrea existed. Furthermore, under Article 6 of the Ethiopian constitution, any person with one or both Ethiopian parents has Ethiopian citizenship by birth.[20]

At no point during the independence process was it suggested that persons whose family traced its roots to the Eritrean part of Ethiopia would automatically lose their legal status as Ethiopian citizens simply by virtue of the fact that Eritrea became an independent state. Neither was it ever suggested that the price of participating in the independence referendum was an automatic loss of Ethiopian citizenship. To the contrary, the Ethiopian Constitution provides that "[n]o Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will".[21] There is no legal basis for any Ethiopian government claim that it is "foreigners" who are being deported.

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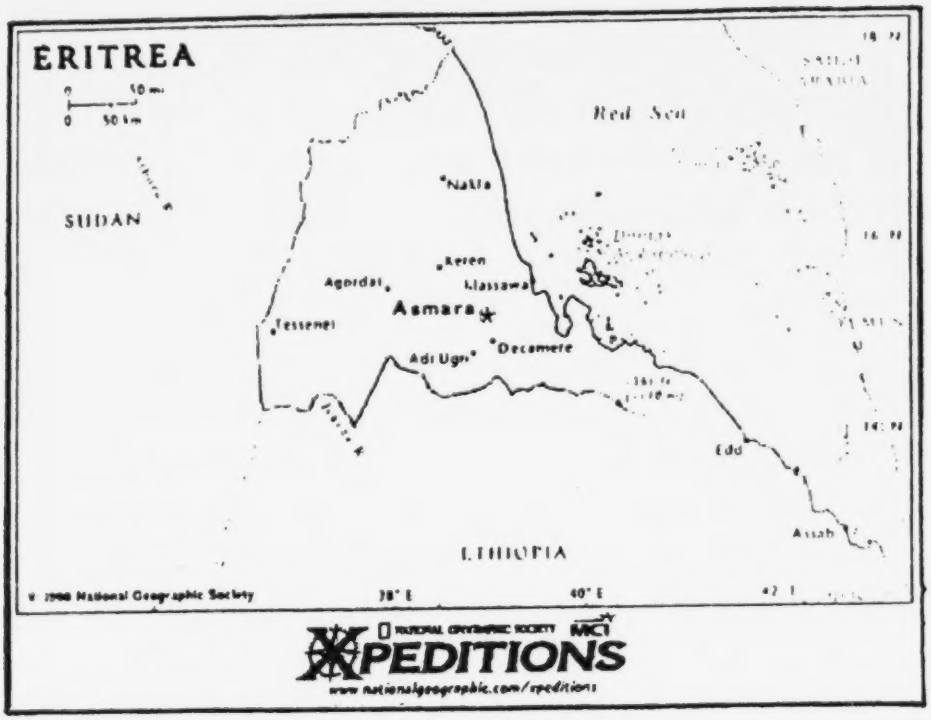
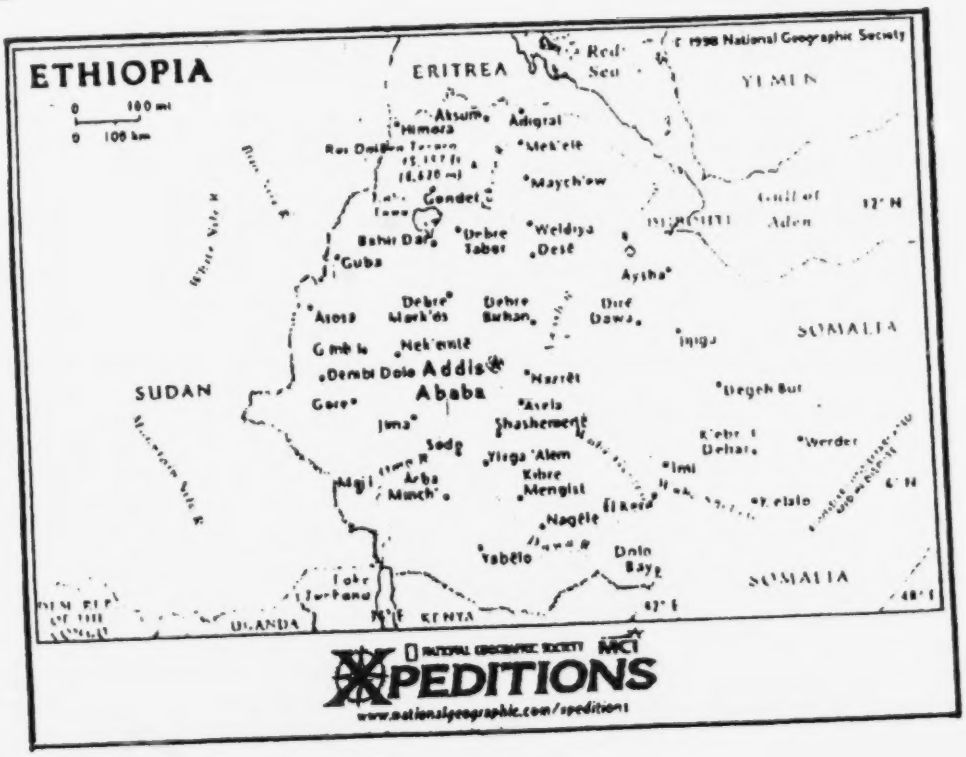
[18] *See* Maps A and B for contemporary maps of Eritrea and Ethiopia respectively. The maps were produced by the National Geographic Society Cartographic Division.
[19] *See* Map C, which is produced by the Defense Mapping Agency, showing the region of Tigray in Ethiopia adjacent to Eritrea.
[20] Article 6, paragraph 1, Constitution of the Federal Democratic Republic of Ethiopia.
[21] Article 33, Constitution of the Federal Democratic Republic of Ethiopia.

MAP A


ERITREA
Red Sea
SUDAN
Nakfa
Keren
Agordat
Massawa
Asmara
Tessenei
Adi Ugri
Decamere
Edd
Assab
ETHIOPIA
38° E
40° E
PEDITIONS

MAP B


ETHIOPIA
ERITREA
Red Sea
YEMEN
Gulf of Aden
SUDAN
SOMALIA
KENYA
Addis Ababa
Gondet
Bahir Dar
Debre Tabor
Weldiya
Desé
Dessie
Dire Dawa
Nazrêt
Asela
Jima
Sodo
Nagêlle
Yabêlo
Dolo Bay
Gore
Degeh Bur
Werder
Kebre Dehar
Kebre Mengist
Arba Minch
Mizan Teferi
Aysha
Inigo
Debre Markos
Debre Berhan
Shashemene
Yirga 'Alem
Negele
Dolo Bay
PEDITIONS

/...

MAP C

ERTRA
Asmara
Tessenay
Adwa
Mek'ele
TIGRAY
GONDER
Gondar
DJIBOUTI
WELO
GOJAM
Dessie
Debre Mark'os
GA
SHEWA
Addis Ababa
Dire Dawa
Harar
Jijiga

/...

The majority of the deportees that we interviewed possessed full legal documentation of their Ethiopian citizenship before their arrest, although in some cases their documents were destroyed or confiscated by the authorities during the deportation process. Their documentation included Ethiopian passports, Ethiopian identity cards, which expressly stated the bearer's citizenship as "Ethiopian," and Ethiopian government business licenses which listed Ethiopian citizenship. Examples of these documents are included in Annex II.[22] The documents do not identify the holder as "Eritrean" (or otherwise "alien") in any way except arguably indirectly in cases where they list a physical location in Eritrea as a place of birth.[23]

Ethiopia's current efforts to characterize as aliens all persons of Eritrean parentage retroactively deprives such persons of a legal status that they possessed unquestionably up until 1991. The actions of Ethiopia run contrary to the strong presumption in international law against rendering people stateless.[24] The Ethiopian government is denying nationality on invidious and discriminatory grounds. The denial is based neither on a deliberate choice made by the individuals themselves to renounce their Ethiopian citizenship, nor on any general norms of Ethiopian law that would treat participation in the Eritrean referendum or other community activities as a constructive renunciation. It is grounded, instead, in the belief that a person with one or both parents from what has now become the independent state of Eritrea can be summarily expelled as a "foreigner," regardless of place of birth, long time residence, or lack of appreciable relationship with the newly independent Eritrean state. Ethiopia is merely seeking through this policy of mass expulsion to rid itself of a group it now decides is undesirable for reasons of parentage or national origin.

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[22] Identifying information has been blacked out where required in order to protect family members remaining in Ethiopia.

[23] Some of the persons that we interviewed also carried Eritrean identity cards, although the expulsions were not limited to such individuals. However, these Eritrean identity cards do not list Eritrea as the country of legal citizenship and they are held by persons of Eritrean parentage possessing varied legal citizenship around the world.

[24] *See*, e.g., Convention on the Reduction of Statelessness 989 U.N.T.S. 175 (entry into force December 13, 1975); Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117 (entry into force June 6, 1960).

II. MASS EXPULSION FROM ETHIOPIA

The current mass expulsion from Ethiopia involves large scale deportation of Eritreans and Ethiopians of Eritrean origin from Ethiopia, arbitrarily selected because of their national origin. Occasionally, the Ethiopian authorities offer some alternative rationalization for the deportation of these people but the reasons given are ad hoc and after the fact. The grounds sometimes given for deportation all relate to activities that were lawful in Ethiopia until the present time. Generally, it is simply because a person is "Eritrean" that he or she is expelled.

1. Selection of people for deportation

As discussed above, the people who are deported are mostly Ethiopian citizens. The Ethiopian government, however, persistently ignores that fact, choosing to focus on ancestry or national origin as the means to categorize Ethiopians of Eritrean origin as "foreign". Using just such a characterization, Prime Minister Meles Zenawi has attempted to justify the Ethiopian government's expulsion of these "foreign" nationals. In an interview with Radio Ethiopia on July 9, 1998, Prime Minister Meles claimed:

> "As long as any foreign national, whether Eritrean or Japanese etc ... lives in Ethiopia [it is] because of the goodwill of the Ethiopian government. If we say 'Go, because we do not like the colour of your eyes,' they have to leave."[25]

The vast majority of deported individuals we interviewed were given no explanation for their arrest, separation from their families, and expulsion. They therefore assumed the reason was "because we are Eritrean". Many of these persons were born in Ethiopia and lived there for their entire lives. RG was born in Addis Ababa and carries an identity card, passport, driver's license, and Chamber of Commerce card all indicating his Ethiopian nationality. RG told the police he is Ethiopian but they asked where his

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[25] *Prime Minister Meles Zenawi's interview with Radio Ethiopia on July 9, 1998, at 8.30pm. Translated verbatim from Amharic (REVISED), in* Eritrea Profile, August 8, 1998, p. 9.

parents were from in order to determine his national origin. RG's parents were Eritrean. They had gone to Ethiopia in 1920 as followers of the Swedish Evangelical Mission, which was banned from Eritrea by the Italians. GT, a 21 year old cashier, was also born in Addis Ababa and has lived there for her entire life. She speaks only Amharic, not any Eritrean language. Her father is of Eritrean ancestry but her mother is not. When GT was picked up, she was told that she was being sent to "her country". GT stated that she did not believe this meant Eritrea until she was at the border.

A group that has been particularly targeted is farmers living in the Tigray region, near the northern border of Ethiopia with Eritrea. For example, three hundred and sixty deportee families have arrived in two villages just outside of Badma, near the border. In Sebra, one of these border villages, twenty four deportee families have arrived in a village that was previously comprised of sixty five families. The Ethiopian authorities are evicting entire villages in an apparent effort to rid these desirable farmlands of Eritreans. These evictions are in violation of Article 40 of the Ethiopian Constitution. Paragraph 4 of that Article states that "Ethiopian peasants have ... protection against eviction from their possession".[26]

The families in this region are not arrested or detained and transported to the border, but simply ordered to leave. LT was given one hour's notice to leave her property with her six children (aged seventeen, fourteen, twelve, twins of ten and three years). LT was not allowed to bring any of her possessions with her. In GT's village, everyone was ordered to leave by ten the following morning. According to GT, "the police told us that if anyone was left at ten in the morning, people or animals, then they could all be killed and the police would not be responsible". GT was able to bring four cows with him but was forced to leave all his other possessions behind. Y, Z and I left all their belongings in their houses and the Tigrayan officials confiscated their farming equipment. Y, Z and I also reported that houses in their village were destroyed or used for firewood or to reinforce trenches.

[26] Article 40, paragraph 4, Constitution of the Federal Democratic Republic of Ethiopia.

The evicted families must make their own way to the border on foot, crossing military lines, carrying their children. No regard was given to the ages or health of the evicted families. A twenty three year old was nine months pregnant when the police came to the farm and ordered her and her husband to leave. She told the police she was about to give birth but they told her they did not care because it would be an Eritrean baby. She gave birth on the walk from her farm to the Eritrean border. Not having eaten in several days, she did not have milk to feed the baby but had to give the baby sugar water after she crossed the border.

Typically, the deportees who have been living in Ethiopia for the greater part of their lives have contributed significantly to the social, political and economic well-being of Ethiopia.

- MM is a retired Ethiopian government soldier;
- ZS drove his truck for free for one month to support the Ethiopian government;
- AG donated money for relief efforts during a famine;
- HG worked on an advisory committee for security and on polling during Ethiopian elections;
- SM worked as a driver for the Tigrayan People's Liberation Front (TPLF) for eleven years;
- Several deportees served in government positions.

Some deportees stated that they had never assisted Eritrea in any way while others asserted that they had contributed equally to Ethiopia and Eritrea. Despite these contributions to Ethiopian society, these people were identified as being of Eritrean origin and expelled.

Such identification of Eritrean national origin is not difficult. One deportee explained that it would be well known to the *kebelle* (local neighborhood authorities) that a person is Eritrean – due to the person's language, friends and / or community group involvement. Informants in the *kebelle* could easily notify the police of the identity of Eritreans and Ethiopians of Eritrean origin. Several deportees also recounted stories of

meetings tha. were held throughout the different regions in Ethiopia. All Eritreans and Ethiopians of Eritrean origin were required to attend these meetings and to register as Eritreans with their local *kebelle*.

a. Grounds alleged for deportation of Eritreans and Ethiopians of Eritrean origin

Ethiopia's discriminatory policy is manifested in the criteria used by Ethiopian authorities to decide which of its citizens are "Eritrean". A representative of the Ethiopian Embassy in Eritrea stated in an interview with us that the policy of the Ethiopian government is to deport people who are "security risks". People who fall within this category, he said, include those who:

- "have served the Eritrean government";
- performed national service in Eritrea;
- are members of the EPLF or Eritrean community groups;
- have raised funds for Eritrea;
- "have helped Eritrea in any way"; or
- "have participated in activities in Eritrea".

These broad and vague criteria effectively ensure that every Eritrean and Ethiopian of Eritrean origin in Ethiopia is a candidate for deportation.

The interviews with the deportees confirmed the statement made by the representative at the Ethiopian Embassy. The deportees were surprised by the reasons occasionally proffered as a basis for deportation because the activities at issue were not in violation of Ethiopian law. Deportees were commonly asked, for example, whether they voted in the referendum for Eritrean independence. One deportee believed that this was the first question always asked by the police. TH, aged 72, was told that he was being arrested because he voted in the referendum for Eritrean independence and he therefore had to go to "his country". He complained that at that point, the referendum had been held with the support of the Ethiopian government, that "they had all worked together for democracy". According to TH, the police responded, that this was true, "but now it is changed". In common with many states' constitutions, the Ethiopian Constitution prohibits punishment

of activity that was legal at the time it was undertaken.[27] The deportations thus violate Ethiopian as well as international law.

Harmless summer activities were sometimes used as grounds for deportation. EA, aged eighteen, was picked up because the previous summer she had spent one month planting trees in Eritrea. She told us that most of the other girls that she was imprisoned with (thirty four other young women, aged between seventeen and twenty one) had also participated in the tree planting program. The police repeatedly asked whether they had done other activities besides planting trees, digging wells, and building dams. The girls denied having participated in any other activities but they were all deported.

Ethiopians of Eritrean origin were also deported if they supported Eritrean political organizations. For example, TH, a thirty five year old farmer, had lived in Ethiopia for sixteen years but was deported because he was alleged to be a member of the People's Front for Democracy and Justice (PFDJ). Similarly, LH was separated from his wife and three children when he was deported for being a member of the PFDJ and was accused of being "patriotic to Eritrea". Even membership of community groups can constitute grounds for deportation. AT was deported for being a leader of the Eritrean community group in Humera. It is unclear as to whether legislation has now been passed to render these associations unlawful; however, at the time of membership and when participation took place they were clearly not prohibited.

Others have been deported for exercising their legally protected right of free speech.[28] The police told RG when he was detained that they had received stories that he had criticized the TPLF's position with respect to the border conflict. According to HG, he was arrested because he had not attended an Eritrean community meeting in his village near Adi Geshu where the authorities wanted the community to "denounce the Eritrean aggression" in Badma. AH was arrested after being forced to attend a political meeting at

[27] Article 22, Constitution of the Federal Democratic Republic of Ethiopia.
[28] *See* Article 19, International Covenant on Civil and Political Rights. Freedom of speech and freedom of association are also protected in the Ethiopian Constitution. These rights are extended to aliens and

which she was told to make banners saying "Crush and Destroy the EPLF". AH refused and was deported.

Occasionally these criteria have been applied to people who are not of Eritrean national origin. KG of Adua, aged forty, has no Eritrean parentage, is married to an Ethiopian not of Eritrean origin, and has always lived in Ethiopia. KG owned a hotel in Adua and rented rooms to Eritreans who had connections with the Eritrean government. KG was accused of giving food to Eritreans and taking political action against the TPLF. S is a twenty two year old woman born in the Tigray region who has no family in Eritrea. She had been a fighter during the war, when the TPLF and EPLF were allies, and had fought with the EPLF. When the police came to arrest her, she was told that she was being taken for political re-education, and was never told that she was going to be deported. She told them repeatedly that she was Ethiopian, and showed her Ethiopian identity card. One of the officers independently knew that she was Ethiopian, because he was the official who had originally issued her Ethiopian identity card. She was deported nonetheless.

b. Deportation of Eritreans visiting Ethiopia

Ethiopia has also targeted Eritrean citizens who are legally present in Ethiopia on a temporary basis. AT, a sixty year old from Asmara, had traveled to Adua to seek repayment of a loan and was staying with a cousin when he was picked up and held in prison for twenty three days. JG had been staying with her sister and brother for a year when she was picked up. The police had come to arrest her brother, who was a demobilized fighter and had fled to Kenya when he heard about the deportations. JG was picked up and deported instead. Similarly, HG, aged sixteen, was picked up because the police could not find the family members they had come to arrest. HG had gone with her family to Addis Ababa to organize immigration papers. AB is a university student who was in Ethiopia for a year as part of an exchange agreement between the Ministers of Education in Ethiopia and Eritrea. Eighty one students taking part in this program were

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nationals alike. *See* Articles 27, 29 ("everyone") and 31 ("every person"), Constitution of the Federal Democratic Republic of Ethiopia.

picked up and held in the Fiche detention camp for forty days. Only forty nine of these students have been allowed to return to Eritrea so far.

In sum, the selection of deportees shows a clear pattern of discrimination on the basis of national origin. Any alternative justifications are essentially ad hoc rationalizations applied after the fact. While some were Eritrean citizens legally present, the majority of deportees are Ethiopian nationals who are being banished from their own country solely for reasons of Eritrean national origin. Frequently, the deportees' Ethiopian passports and identity papers are confiscated; in other cases, the passports are stamped "Deported – Never to Return." In deporting people who are Ethiopian nationals, Ethiopia is effectively rendering these people stateless.

2. Forced separation of families

A prominent feature of the mass expulsion of Eritreans and Ethiopians of Eritrean origin from Ethiopia has been the deliberate strategy of separating families. Under Article 23 of the International Covenant on Civil and Political Rights, "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State". The Ethiopian Constitution contains comparable protections.[29] The separation of children from their parents also constitutes a violation of the Convention of the Rights of the Child. This Convention provides in Article 9: "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child." The interviews with the deportees indicate that Ethiopia has violated all of these provisions.

The forced separation of families has several dimensions. Before families can reunite, the deportees, and those who remain behind, face considerable financial and emotional burdens. In many cases families lose their main source of financial support or the primary caregiver of the family. In addition, the Ethiopian police have exercised

[29] Article 34, Constitution of the Federal Democratic Republic of Ethiopia.

complete random discretion to decide which family members stay and which are deported. These efforts to separate families occur not only at the point of arrest and detention but throughout the deportation process.

a. Loss of family's sole financial support and parental care

One inevitable result of the separation policy is that families are deprived of their primary source of financial support. The following stories are typical of this situation:

- TH, a mason, is married with three children, all of whom are school students and remain in Ethiopia. He was the only source of financial support for them.
- ZS, a fifty year old truck driver, was picked up at a checkpoint driving between Addis Ababa and Humera and deported. He has had no contact with his wife and six children in Addis Ababa and does not believe that they know he was arrested. His children are all school age and his family has no means of support in his absence.
- HG, aged twenty eight, has been separated from his wife and two children (a two year old and a five month old baby). He was also financially responsible for five brothers following the death of his mother. HG was not able to communicate with his wife before he was expelled and does not know what has happened to his business.

Numerous interviewed individuals reported being taken even though they were the sole caregiver present in the house at the time that the police arrived.

- EA was awake and making breakfast when the police came for her at five in the morning. She begged to be allowed to stay with the four children (aged one, three, five, and eight years) that she was tending until their mother's expected arrival home from her work at the hospital at eight. The police refused.
- HAT was alone in the house with her brother's child when she was arrested.
- AGT was on a long distance truck run when the police came for his wife and one of his children. His other five children were left alone in the house until he returned.

- HF, who is divorced, was deported with her fifteen year old son. She was forced to leave her seventy five year old blind mother alone in the house even though she begged the police to bring her mother with them. There is no one to take care of her mother now.

b. Separation subject to police discretion

Typically, no basis is articulated for why some family members remain while others are arrested and / or deported. AH told us he was only allowed to bring three of his daughters with him (aged thirteen, eleven and eight): "The children don't understand what has happened and keep asking when they can go home. They say that they miss their mother." Similarly, FBS has three of his five children with him and they repeatedly ask why this is happening. FBS said he has no answer to give them.

Whether children may leave with their parents is often a question left to the mercy of the police. TW of Mekele was picked up by the police at church. Her husband is a merchant in Addis Ababa and only comes to Mekele once a year. Her five children were alone in the house when TW was picked up, and had to be taken care of by the two oldest (aged fifteen and thirteen). Once informed that she was being sent to Eritrea, TW begged the police to be allowed to take her children with her because there was no one in Mekele to look after them. She was told that she might bring the ones under age eleven, and managed to leave with three of them (aged five, eight and twelve). The older two are still in Mekele. Similarly, ZB was deported with her two youngest children (aged nine and ten). She was able to bring these two children because one of her son's friends worked at the police station. Her three older children have remained in Addis Ababa with her husband. MT, a divorced woman, was allowed to bring her twin thirteen year old girls but had to leave her two older children.

Family divisions sometimes result from the fact that the spouses belong to different ethnic or national groups. Only the spouse of Eritrean origin is expelled and the other spouse is not permitted to accompany his or her partner. For example, AG, a sixty year old born in the Tigray region, has an Ethiopian wife with no Eritrean ancestry. She has

remained in Adua with their seven children. The same is true for TH, a farmer from Humera, who was unable to see his wife (not of Eritrean origin) before he was deported. He does not know how she and their two children (aged five and two years) will be supported now. ZS faces a similar situation. He is married to an Ethiopian woman not of Eritrean origin and the police refused his request that she and his two children (aged seven years and six months) come with him. The police told ZS that his children are Ethiopian and he should not expect to see them before they turn eighteen.

c. Continued attempts to separate families during the deportation process

A large number of deportees reported that even when they were able to bring some of their children with them, a further attempt at separation was made in the Tigray region before reaching the Eritrean border. ZB, who was deported with two of her five children, recounts that they traveled from Addis Ababa with four policemen from different Ethiopian ethnic groups. When the buses reached Adua, the Tigrayan regional police wanted to split the group by age and said that the children would be taken to the border by bus while the others would walk. The deportees thought this was a lie and would not separate despite forcible attempts by the Tigrayan police. The four policemen from Addis Ababa supported the deportees and insisted that they accompany the deportees to the border as per their instructions. EB, who was deported with four of her five children (aged fourteen years and younger); MT, who was deported with her thirteen year old twin daughters; and TG, who came with a daughter aged eleven, recounted a similar story. A representative of Red Cross Eritrea was of the opinion that the Tigray regional police had lied about buses being used to transport children across the border as the intention was to split the deportees in order to take the men off to camps. A summary of a field trip by UNICEF Eritrea also reports:

> It is said that at the transit camp in Adwa, after crossing into Tigray province, an effort was made by officials to separate children and women from men deportees – which frightened the deportees, who resisted.[30]

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[30] *Summary of Field Trip Findings about Deportees' Children Left Behind – Report on field trips undertaken by UNICEF Eritrea to Assab and Mendefera to access* (sic) *the situation of the deportees.*

The Ethiopian government does not deny that it is purposefully separating families. A representative at the Ethiopian Embassy in Asmara explained that if a husband and wife are both "security threats" then one must leave and the other can remain for one month to settle the family's affairs before joining the spouse in Eritrea. A month is obviously an inadequate period of time for a remaining spouse to organize all of the family affairs to move to another country. Instead, the Ethiopian policy frequently results in families being compelled to leave property, both personal possessions and business assets.

3. Confiscation of property

The mass expulsion of Ethiopians of Eritrean origin has entailed a large scale violation of economic rights, in the form of *de facto* expropriation of virtually all of the property of the deported individuals. According to the deported Ethiopian lawyers we interviewed, under Ethiopian law no property may be confiscated except on the grounds that it was originally obtained illegally. These lawyers further stated that property or wealth illegally held, possessed, earned or obtained or property whose owner is not identified may be confiscated by the government only after court proceedings in accordance with Ethiopian law. The Ethiopian Constitution provides, in Article 40, paragraph 8, that the Ethiopian government may only expropriate private property "for public purposes subject to payment in advance of compensation commensurate to the value of the property".

Interviews conducted with a range of deportees indicate that the police purposely target particular people with certain assets. Large companies, hotels and trucks have commonly been taken. The deportees are sometimes given an opportunity to draft powers of attorney while in prison but under Ethiopian law these are not legally valid unless filed in court. The forms thus merely provide the authorities with additional information about the deportees' assets and bank accounts. Deportees have lost their businesses, their personal possessions and their pensions.

RG is an example of an individual who was probably targeted because of his assets, namely a successful agriculture export business. When the police came to pick him up, they already had information on the quantity, location and source of sesame seeds that he was preparing to export and the amount of rent he paid on his house. Another example is MM who was a distributor for Melotti Beer, owned a thirty hectare farm and a hotel, and was an agent for another farm. The Tigrayan police demanded that MM prepay the taxes on the crops MM would harvest that year but then prevented him from planting those crops. The police took two tractors as well as three refrigerators and three generators from his hotel before he was arrested. MM commented that it was obvious when he was picked up that the soldiers were going to keep the hotel as they started controlling it immediately and took the hotel's 35,000 Birr[31] petty cash. His two Melotti trucks were also confiscated. A further example is AT, a farmer in Humera, who owned twenty hectares of land and seventy five cattle. AT recounts that after he was picked up, the Ethiopians took the legal title to his land and began charging his family rent.

A report compiled by the Eritrean Relief and Refugee Commission (ERREC), based on information from interviews conducted with an initial group of 1402 deportees, estimated that the total value of assets and cash left by that particular group of deportees was USD 212 million.[32] A number of these deportees were business people who owned over USD 1 million worth of property and assets. A report published by Citizens for Peace in Eritrea,[33] containing transcripts of interviews with deportees, recounts that one of these deportees lost a 15 million Birr investment in a multi-story hotel. Another deportee, who holds a Masters in Civil Engineering from Stanford University, owned the largest construction company in Ethiopia and was responsible for the construction of a number of large buildings and bridges in Addis Ababa. He was also responsible for several waterworks projects, including three major government projects. After he was deported, his wife was initially given one month to sell all of their properties and other assets but she was expelled before she had a chance to do so. The police stayed overnight in their

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[31] The rate of exchange is 7.2 Birr to one US dollar (as of August 25, 1998).

[32] *A Preliminary Report on the Eritrean Nationals Expelled from Ethiopia During June-July 1998: A Synopsis of their Social Characteristics and Manners of Deportation.*

house and drove the workers out of the factories, garages and stores. All of these buildings were marked "sealed". He estimated that the total assets of the firms were more than 34 million Birr.

Recent news reports also indicate that the Ethiopian government is taking over businesses confiscated from the deportees. According to an Ethiopian television news report, rebroadcast by the BBC Summary of World Broadcasts, the Commercial Bank of Ethiopia has begun to monitor and control the activities of eleven large Eritrean-owned companies in Addis Ababa "for security reasons".[34] The Board of Directors of Horn International Bank, which was lawfully established in accordance with the National Bank of Ethiopia's regulations, has sent a letter of complaint to the United Nations Resident Coordinator in Eritrea. This letter points out that before the company's license was issued the government confirmed that the directors were of Ethiopian citizenship as required by law. The directors, who are all Eritrean origin, have learned of plans that the National Bank of Ethiopia intends to liquidate the Horn International Bank's assets, which are worth 14 million Birr.[35]

No deportee that we interviewed was given an opportunity to either bring or to dispose of all of his or her property and belongings. Pastoralists and farmers typically lost all of their cattle and farm equipment in addition to any land that they owned. Merchants experienced similar hardship.

- HG was a sesame seed farmer and his grinding machines and two camels, his most valuable assets, were confiscated.
- HO was a coffee merchant in Addis Ababa and he was not given an opportunity to sell his business before the police closed it down and sealed it.
- HKA, a merchant, sold off his entire stock when he heard about the deportations and gave the proceeds to an Ethiopian friend. He was not able to recoup this

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[33] Asmarom Legesse, *The Uprooted: Case Material on Ethnic Eritrean Deportees from Ethiopia Concerning Human Rights Violations*, 26 July 1998.
[34] "Ethiopian bank takes legal measures over firms owned by Eritrean deportees", Ethiopian News Agency, August 14, 1998, *reported by* BBC Summary of World Broadcasts, August 25, 1998.
[35] Letter to Mr. Martyn A. Ngwenya, UN Resident Coordinator, Asmara, Eritrea, July 16, 1998.

money once he was sent to prison as his friend is afraid to be seen helping an Eritrean in case he is punished as well.

These losses are systematically recorded by ERREC when registering newly arrived deportees.

The deportees lose not only their businesses but also all of their personal possessions. They rarely have an opportunity to pack any clothes or bring blankets to prison with them. LN was taken from her home at ten in the evening and was not allowed to change out of her pyjamas. AAK was picked up off the street and still carries his house key in his pocket. EB had no time to take anything from her house before she and her four children were taken to prison.

Deportation from Ethiopia has also meant that a number of Ethiopian nationals of Eritrean origin are no longer able to collect pensions from the Ethiopian government. BB worked as a driver and is now retired. He was receiving 92 Birr per month as a pension but can no longer receive it. AAK, a fifty eight year old teacher, had lived in Addis Ababa for fifty years. He retired four months before he was deported. His pension was accumulated from deductions taken from his salary as a teacher throughout his lifetime. There is no way for him to recover that money now. TT was receiving monthly compensation payments for the wrongful assassination of her husband by the previous Ethiopian government. She did not receive her last payment as she was picked up the day before it was due.

Many deportees recounted that prison officials required them to sign powers of attorney forms as a means to dispose of their assets. The formalities required to render an assignment of power of attorney legally effective are rarely completed. RG recounted his experience of organizing a power of attorney in prison: "I was given twenty four hours to organize it. There was no telephone in the prison and so I asked the people bringing food in to take a message for me. With so little time, I could not choose who I wanted but it had to be whoever could be found. I had to fill in a form in front of the prison guards. It was not a regular power of attorney form but one made for people in prison. The prison

guards stamped it, gave a copy to my friend and kept a copy for themselves. In doing this, they got all the details about my bank accounts and property. By knowing this, they can now use the information to block the sale of my property. It's a clever way for the Woyane [Tigrayan officials] to get property."

A number of deportees completed these forms despite knowing that the forms would not be legal unless filed with the court. TH filled in a form, which was stamped by the police, to give his wife power of attorney over his coffee plantation, rental properties and hops factory. TH does not believe this form was given to his wife. The police told AG that his power of attorney form would not be given to his wife because she did not need it. HF was not allowed to sign the administration of her Addis Ababa hotel over to anyone.

The range of property confiscated – from large businesses, to personal possessions, to pensions – has meant that all deportees lose something when they are sent to Eritrea. The value of the property confiscated increases every day as more and more people are sent across the border. The total estimated by ERREC in its report was only for one group of 1402 deportees. The number of deportees has now passed twenty thousand people and the rate of arrival of deportees has increased in the month of August. Ethiopia is continuing to round up all people with connections to Eritrea, to separate families and to confiscate their property. The people losing their property this way are being targeted because of their Eritrean national origin. The manner in which the Eritreans and Ethiopians of Eritrean origin have been arrested and the conditions of their detention and transportation also signal discriminatory and arbitrary treatment by the Ethiopian government.

4. Manner of arrest of Eritreans and Ethiopians of Eritrean origin in Ethiopia

Ethiopia has ignored all forms of due process in the arrest of Ethiopians of Eritrean origin. The method employed by Ethiopia to pick up these persons is in violation of Article 9, paragraph 1 of the ICCPR. This provision reads:

/...

> Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

These rights are also enshrined in Article 17 of the Ethiopian Constitution. A deportee who prior to deportation worked as a prosecutor in Ethiopia confirmed that under Ethiopian law a warrant is required for an arrest. Not a single deportee interviewed stated that a warrant was ever produced or even mentioned at the time of arrest or thereafter.

a. Arbitrary arrests

Pursuant to their policy of separation of families, the Ethiopian authorities frequently arrived at a house, usually in the middle of the night, and took one family member. The following stories illustrate this point:

- The police asked for EA by name when she was picked up at five in the morning. She was taken to the station leaving four children alone in the house.
- ZB's husband answered the door at three in the morning and the police specifically requested that ZB, a mother of five, come to the police station.
- Nine police officers came to the home of YS and AS (a sister and brother). The police originally picked up YS and then sent her home with the message that her father was to take her brother, AS, to the station when he returned from school. AS is being held in a detention camp and YS was arrested and deported after she tried to take food and clothing to him.

Although these three examples involve cases where the police came looking for specific people, in other instances, the deportee was arrested simply for being in the wrong place at the wrong time. JG and HW were both picked up because the family members that the police wanted to arrest were away. AAK was followed by the police and then picked up off the street. ZS was arrested after showing his driver's license, which showed his place of birth as being in Eritrea, at a checkpoint in Gonder.

Ethiopian authorities also summarily rounded up all Eritreans and Ethiopians of Eritrean origin from certain areas. Deportees reported that they were registered by their local

kebelle where they had to provide their names and addresses. GT was picked up at midnight and witnessed the police continuing to pick up people in her neighborhood until five in the morning. MN is an eighteen year old who was taken from a school for orphans in Addis Ababa after the police issued a declaration that all schools should bring in "Eritrean" children. The orphanage delivered MN to the police station. AT recounted that only men had been arrested in his zone in Humera but it was announced that all women must report to the police station on August 18 for deportation.

b. Lack of reasons for arrest

The police in Ethiopia often gave no reasons at all when picking up the Eritreans and Ethiopians of Eritrean origin. Many deportees did not even ask for a reason, knowing that they were being arrested simply because they were "Eritrean". However, Article 9, paragraph 2 of the ICCPR states:

> Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Arrest without justification is also in violation of the Ethiopian Constitution.[36] The police sometimes fabricated reasons for taking people to prison. The police falsely informed SM, who worked as a driver, that he was needed as a driver for an oil tanker going to Mekele. YG from Mekele and AG from Addis Ababa were asked to go to the police station "to make a statement". LN, a nineteen year old, was taken from her home on the pretext that the police wanted her as a witness for something.

The deportees were not "promptly informed of any charges" against them. At most, the deportees could guess why they were being held in prison by the questions they were asked. The questions often concerned whether they or one of their parents or grandparents was born in Eritrea; whether they had voted in the referendum; whether they held an Eritrean identity card; whether they had undertaken national service; whether they were "spies" for the Eritrean government. Many deportees had their fingerprints or photographs taken – some people were required to hold numbers in front

[36] Article 19, paragraph 1 of the Constitution of the Federal Democratic Republic of Ethiopia states: "Persons arrested have the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charge against them."

of them when they were photographed. Several deportees were ordered to sign a form without being given an opportunity to read the contents of the form. No deportee that we interviewed was ever formally charged with any crime.

5. Conditions of detention

The absence of due process in the arrest procedure is followed by inhuman and degrading treatment in prison. In accordance with Article 10 of the ICCPR, "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The Ethiopian Constitution similarly provides that persons held in custody have the right to treatment respecting their human dignity.[37] The deportees were, however, subject to harsh conditions in prison. These included: lack of food, water and health care; overcrowding and solitary confinement; and inadequate provision for children.

a. Provision of food, water and health care

Nearly all deportees said that they had not been provided with food but had to rely on family members to deliver food to them in prison. Those deportees with no family depended on food given to them by other prisoners. ZB had no food on her first day in prison because, with so many people in prison, there was insufficient time for all the prisoners' families to leave food for them. Her family came back at four the next morning and was able to give the guards food, sheets and clothing for herself and her two children. The prisoners were not able to see or speak to their family when the food was dropped off even though the right to communicate with family members while in prison is protected by Article 21, paragraph 2, of the Ethiopian Constitution. A number of deportees said that their families had also brought water to them while others said it was supplied. A few deportees said that they had bought food and water – in one case, by giving money to the guards. ZH mentioned that during the time she was in prison, the Red Cross visited. She reports that the Red Cross was told that the food, which had been brought by the prisoners' families, had been supplied by the prison.

[37] Article 21, paragraph 1, Constitution of the Federal Democratic Republic of Ethiopia.

Many deportees had to regulate the amount of food they ate and water they drank because they were only allowed to go to the toilet twice a day and armed guards would accompany them. AA became ill while he was in prison but when he asked about going to a health clinic, AA was told, "You are Eritrean, we do not care if you die".

b. Overcrowding or solitary confinement

Eritreans and Ethiopians of Eritrean origin were not only imprisoned in police cells but were also detained in metal shipping containers of various sizes. ZS, aged fifty, was held in a metal container. He was detained there for twenty days with twenty seven other people, who were all ex-fighters or had performed national service. They were all held in manacles and it was extremely crowded. LN, a nineteen year old who had completed national service, was held in a shipping container with fifty other people before being deported. HKA shared a room with forty to fifty people, and it was so crowded that there was no room for people to lie down to sleep. TH was held in an underground room with forty other men for thirty days.

Several deportees reported being detained in solitary confinement.

- For five days, MH was imprisoned alone inside a metal container in a part of Ethiopia where the temperature routinely reaches 37 degrees Celsius (100 degrees Fahrenheit). It was so hot in the container that it caused burns on his back. MH was taken to a regular prison after he suffered a serious asthma attack.
- ZS, aged forty, was working as a temporary garbage collector in Wollo. His only connection to Eritrea is his mother's ancestry and when he told the police he was Ethiopian, they beat him until he agreed to say that he was Eritrean. The police told ZS that they were going to kick out or kill all the Eritreans they could find. The police kept ZS alone in a room with the lights off for one month. They only turned the lights on at meal times. His wife, who is not of Eritrean origin, brought food for him. He then spent one week in a regular prison before being deported.

- HF was also held in solitary confinement. Her house servant had been held in prison for four days and intimidated until she was willing to say things about HF. HF was imprisoned alone for fifteen days.
- MF was accused of being a spy and held in a cell without light for eight days.

c. Children in detention

Where children were deported along with their parents, they had to stay in prison with their parents and endure the same conditions. Article 37 of the Convention on the Rights of the Child states that "[n]o child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention, or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time". In the same Article, it is also stated that "[e]very child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of their age."

AT spent three days in prison with four of his children, aged between eight and sixteen years old. Two of NG's ten children were imprisoned with him for eight days because they followed him to the police station after he was arrested and protested his detention. AGT was kept in prison for three days with five children while his wife was kept in another prison with their other child for two weeks. None of the deportees who were accompanied by children indicated that special arrangements or consideration were given for children in prison with them.

6. Continued detention without trial

Contrary to the international law requirement that anyone arrested should only be detained for a reasonable time or be released,[38] Eritreans and Ethiopians of Eritrean origin that we interviewed had been held in prison for as long as three months. Some

[38] *See* Article 9, paragraph 3, International Covenant of Civil and Political Rights, which reads: Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

deportees were moved from one prison to another, making it virtually impossible for relatives to locate them to provide food and water

AT, a sixty year old man who had gone to Adua for repayment of a loan, was held in two different prisons for twenty three days before being deported. ZS also moved prisons – spending four weeks in the first prison and then six weeks in another prior to expulsion. MS was kept in prison for fifty seven days; he spent eight of those days alone in a cell without any light. AB, a university student participating in an exchange program between Ethiopia and Eritrea, spent a total of forty five days in prison. Only one deportee interviewed, HKA, had an explanation for this lengthy time. He said that during the two months and three days that he was in prison, the police investigated and determined he was a civilian and so could be deported.

No deportee reported being formally charged with any offense or being taken to a court. The ICCPR requires that:

> Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.[39]

No procedural opportunity of any kind was given for the deportees to challenge their imprisonment. GG, AT, NA and FH, all aged between seventeen and nineteen, said that their parents went to the authorities to make representations and the administrators told their families that they would be given reasons and their daughters would be released but this was not done. All of these women commented that this situation was very typical. WG, a wealthy businessman, stated that any opportunity to appeal would have been meaningless anyway, and commented that "the Woyane [Tigrayan authorities] are above the law. There is only fake justice."

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[39] Article 9, paragraph 4, International Covenant of Civil and Political Rights. A similar provision is included in Article 19, Constitution of the Federal Democratic Republic of Ethiopia, which provides in part: "Persons arrested have the right to be brought before a court within 48 hours of their arrest. ... All persons have an inalienable right to petition the court to order their physical release where the arresting police officer or the law enforcer fails to bring them before a court within the prescribed time and to provide reasons for their arrest."

The only way to be released was through extra-judicial means. JG was told that she would be released if she had sex with her arresting officer. One woman recounted that when the deportees crossed the border near Adua, the Tigrayan police told the deportees that if they paid 10,000 Birr then they would be taken back to Addis Ababa. She knew of four people who had been released for paying such bribes. AG, who arrived in Eritrea via Assab, recounted a similar story. AG considered that it was not worthwhile paying a bribe as he believes all Eritreans and Ethiopians of Eritrean origin will be deported anyway. KG, who was accused of helping Eritrea by renting hotel rooms to Eritrean supporters, paid the Tigrayan authorities 50,000 Birr as a guarantee that she would not support Eritrea in the future. She was nonetheless picked up two days after paying the guarantee and deported.

In sum, our interviews with deportees indicated that detention typically meant both overcrowding and a lack of provision of food and water. There was no certainty as to the amount of time a person would be detained and no recourse to judicial avenues was available. Contrary to both international human rights law and Ethiopian law, Eritreans and Ethiopians of Eritrean origin are given no due process before deportation and are subject to such conditions that entirely disrespect their "inherent dignity".

7. Transportation of deportees to the border

Farmers living in the northern area of Ethiopia who are forcibly expelled from their lands are not provided with any transport but are simply told that they must proceed to Eritrea on foot. Individuals coming from more distant places are transported on buses but under conditions no better than the imprisonment that preceded the deportation. As when in prison, the deportees lack sufficient food and water and are severely overcrowded. The final part of the journey always requires the deportees to walk to the Eritrean side of the border. The Ethiopian government has never notified the Eritrean government of where people will be dropped so that buses can be sent to meet them. Instead, the different groups of deportees are sent unpredictably to different parts of the border. These include

an area near the port of Assab, one of the hottest places in the world, and the flooded Setit River where those expelled are forced to wade through parts of the river carrying infants and helping the elderly.

The Ethiopian government has not permitted international humanitarian oversight of the deportation process. Contrary to a Statement of the Ethiopian Ministry of Foreign Affairs, representatives of the ICRC have not been involved in the transfer of Ethiopians of Eritrean origin.[40] Indeed, the representative of the Ethiopian Embassy we interviewed stated that the Ethiopian government prefers sole responsibility for the transportation for "security reasons". The bus journey to the border commonly took around three days. However, the journey time was inexplicably extended on certain occasions, when buses were held in the Tigray region for several days before proceeding to the border. A number of deportees said that the buses often traveled at night without any light – sometimes just relying on the tail lights of the bus in front. One deportee speculated that no lights were used because the police did not want the deportees to see a military base that they passed on the way to the border.

The provision of food and water was minimal, or non-existent. GT's journey to the border took three days of non-stop travel. She said that the deportees were only allowed to drink water from lakes that they passed during the journey. AB suffered from giardia as a result of water he drank during the journey to Assab. After asking for water during an overnight stop, the guards provided a small amount but AB saw in the daylight that the water was filthy. EA, who left the Gojam region, was not allowed to leave the bus to buy food but had to give money to the guards to purchase food.

All the deportees crossed the border on foot and most were sent across the border at night. HAT was taken to Humera with one hundred and fifty other deportees and they had to walk ten kilometers before Eritrean soldiers found them and provided transport to the nearest Eritrean town. TW and her three children (aged twelve, eight and five) had to

[40] Letter to Mr. Girma Asmerom, Eritrea's Ambassador to Ethiopia from the Head of Delegation in Ethiopia, International Committee of the Red Cross, *in* Eritrea Profile, 8 August 1998.

walk to the border in the dark. HO, aged seventy two, fell, injuring his hip, during the walk to the border and had to be helped by the other deportees. Both TW and HO had to walk seven kilometers to safety. The bus driver whispered to AT and the others in his bus that they should be sure not to step off the road because there were landmines.

Deportees who arrived in Omhajer were forced to cross the Setit River border. The bridge that spans this river has been washed out on the Ethiopian side by flood conditions resulting from heavy rain and so the deportees must wade through the water and then climb up onto the bridge to cross into Eritrea. As it is the rainy season, the water can be waist high and the current is very strong. The people forced to cross the border in this manner range in age from one year to seventy years old.

Many of the hundreds of deportees coming to Assab reported suffocating conditions during the journey. The average temperature in this area approaches 42 degrees Celsius (approximately 110 degrees Fahrenheit). The deportees were required to take their luggage from the top of the bus and hold it in the bus with them when they approached this area. The deportees were also told to close all the windows and were left in the buses all night. AT was traveling with his four children who became very ill and would not stop crying. After one child lost consciousness, the police allowed one of the doors to be open but refused to open the windows. The deportees then had to walk to the border.

ZS recounted a story of 800 deportees who crossed the border at Zalambessa on August 8, 1998: "It was night and it was raining. When the bus reached Tazzi, they told us to get off the bus and take our things. They told us that our country is straight ahead and to get out. We asked to wait until morning when it was light because we knew that we were walking into Eritrean front lines. The Woyane [Tigrayan authorities] said to go now or they would shoot some of us. We started to walk and the rain started. We stayed in one place for 15 minutes waiting for the rain to stop and then we got scared and started walking again. We heard another group behind us. At the same time that we heard that group, we heard firing coming from behind them. I thought that the Ethiopians had tricked us and that we were not being sent to Eritrea but they had decided to shoot us

instead. I'm not sure what happened next as I was so scared. I remember Eritrean soldiers coming and bringing us back behind the lines. Later, the Eritrean soldiers told us that they had heard the children crying and that is why they did not fire back at the Ethiopians. The soldier said it was lucky or they might have shot us by accident. I think that is what the Ethiopians wanted."

8. Detention camps in Ethiopia

At present, many Eritreans and Ethiopians of Eritrean origin are still detained in camps in Ethiopia. The first such camp was established in Fiche outside of Addis Ababa but since then additional camps have been established in more remote areas of Ethiopia. A number of deportees reported that they had been in prison with ex-fighters or Ethiopians of Eritrean origin who had undertaken national service. HG was in prison with eleven young Eritreans who he knows well. They were all accused of being fighters but HG knew that was not true. According to HG, these prisoners were taken away at midnight and he does not know where they have gone. ZS was detained with demobilized fighters and said they were taken away after spending twenty days in prison. HF was in prison at Shogele with ex-fighters and thinks they were taken to Assala, which is north of Addis Ababa.

AB, a university student in Ethiopia on exchange, was detained in Fiche with eighty other students for approximately forty days. He estimated that there were twelve hundred men being held in this camp. The oldest man was seventy years old and the youngest was fourteen. AB thought the average age would have been between twenty and twenty five. According to AB, the conditions in Fiche were "horrible". Their heads were shaved, they were not allowed to wear shoes and they had to wear coveralls. They received inadequate food and water and were only permitted to use the toilet twice a day. The prison was visited by representatives of the ICRC, the OAU and also the press. The prisoners were ostensibly allowed to talk to these visitors but most who did so were beaten after the visitors left. When AB was deported, everyone in the camp was required to pack. However, not all detainees were deported. At least thirty of the students and

hundreds of other detainees were taken to Blatine, which is in a remote area between Addis Ababa and the Kenyan border.

It is not known at this time exactly how many detainees remain in camps in Ethiopia. We do not know how many of these camps exist and, in particular, how many are unknown to and unvisited by the ICRC. The deportees that we interviewed about their experience in detention camps were ones who had been detained in Fiche. Although many deportees knew of demobilized fighters and other people "being disappeared", it is not possible to estimate the number. Information on these persons remains scant.

9. Violation of diplomatic immunity

Following the outbreak of fighting between Ethiopia and Eritrea, diplomatic relations between the two countries became significantly strained. On June 7, members of the Eritrean Embassy in Ethiopia, except for the Ambassador and one other staff member, were expelled. The circumstances of this expulsion were described to us by an official from the Eritrean Embassy at an interview at the University of Asmara.

The Eritrean official stated that "every diplomatic immunity was violated". The diplomatic staff were escorted from the Embassy by armed guards; their bags were searched and six suitcases were broken. The diplomatic pouch was inspected. Military cars were kept in front of the Embassy and video camera footage and photographs were taken as the Embassy workers left. The civil servants who worked at the Embassy (both Eritreans and Ethiopians) were imprisoned and some were expelled. These actions by the Ethiopian government are a direct violation of the Vienna Convention on Diplomatic Relations.[41] In particular, Article 45 provides: "If diplomatic relations are broken off between two States ... the receiving State must, even in the case of armed conflict, respect and protect the premises of the mission, together with its property and archives."

[41] *See* Articles 22, 24, 27 and 29, Vienna Convention on Diplomatic Relations 500 U.N.T.S. 95 (entered into force April 24, 1964). Ethiopia acceded to this Convention on March 22, 1979.

We inquired from representative of the Ethiopian Embassy whether similar violations had taken place at the Ethiopian Embassy in Eritrea. We were told that the Eritrean government had requested that Ethiopia minimize the number of staff in the Embassy but that no government representatives entered the premises.

III. ALLEGATIONS OF MASS EXPULSION FROM ERITREA

While the main focus of our investigations was the deportation of Eritreans and Ethiopians of Eritrean origin from Ethiopia, we also inquired into charges that Ethiopians were being expelled from Eritrea.

The official position of the Eritrean government was adopted by a resolution of the National Assembly on June 26, 1998:

> The National Assembly has asserted that in contrast to the inhuman policy of the Ethiopian government, the Eritrean government has not, and will not, take any hostile action against Ethiopians residing in the country. Their right to live and work in peace is guaranteed. If this right is infringed under any circumstances or by any institution, they have the full rights of redress. This policy that can see a horizon beyond the conflicts of today will not change even if the current crisis deteriorates to any degree.[42]

We questioned the representative of the Ethiopian Embassy in Asmara to determine whether this was true. He stated that Eritrea was not forcibly expelling Ethiopians from Eritrea but said that they were being "indirectly expelled" because they were losing their jobs and lived in fear of discrimination.

While we were in Eritrea, two hundred and three Ethiopians were temporarily residing in the compound of the Ethiopian Embassy. We interviewed the representative of these people in English. These people (one hundred and sixty one men, forty women and two children) were mostly casual laborers and house maids from the ports of Massawa and Assab. The laborers had lost their jobs because of a lack of work following the closing of the border between Ethiopia and Eritrea and Ethiopia's decision to use ports through Djibouti instead of Eritrea. These Ethiopians were not compelled by the Eritrean government to stay in the Embassy compound but went there for food and shelter because

[42] Statement of the 11th Session of the National Assembly of Eritrea.

they had run out of money. They all wanted to return to Ethiopia but were unable to leave because they could not afford the standard price of an exit visa.

Prior to our departure from Eritrea, the Eritrean government decided to waive the requirement of an exit visa for all Ethiopians wanting to leave and unable to pay the standard charge. A representative at the Eritrean Foreign Ministry informed us that members of the ICRC accompanied the Ethiopians to the border. The *Eritrea Profile* newspaper reported that:

> Some of those who left for Ethiopia said they were leaving in order to secure the release of their parents detained by the authorities. They said that the Ethiopian authorities detained the parents on the grounds that their sons or daughters were residing in Asmara.[43]

A UN Observation Mission reported on the situation of Ethiopian permanent residents in the Eritrean city of Assab as follows:

> The group met with approximately 25 Ethiopians who were permanent residents in Assab, some having lived there over 50 years. Many were port workers or day laborers. Those who were permanent port staff reported having been put on paid annual leave in late May. The daily laborers were having little income due to the lack of work in Assab since the border closed and expressed serious concern for themselves and their families. Many said that they had no money with which to buy food. When asked if they would like to go to Ethiopia, the people in the group declined, saying that Assab was their home and that they had no place in Ethiopia to return to. None of the group reported having been mistreated by others and they told the delegation that they had [no] other problem than of getting work to feed their families. They reported that the local authorities had begun registration for food provision the day before but had suspended because there were so many people to register that the scene became chaotic; they were told that registration would begin again during the week.[44]

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[43] "Over 180 Ethiopians Leave for Home on Voluntary Basis", *in* Eritrea Profile, August 15, 1998, p. 1.
[44] United Nations Development Programme, Asmara-Eritrea, *Update on Deportees: 12-10 July 1998*, 22 July 1998, Annex A.

According to these descriptions, Ethiopians are leaving Eritrea on a voluntary basis under the supervision of the ICRC. The main problems being faced by Ethiopians in Eritrea is a lack of employment (arising primarily from decreased business at the Eritrean ports) and the consequent lack of funds to procure transportation or to pay for exit visas to leave Eritrea. As noted above, the Eritrean government is now waiving the cost of this visa. The representative of the Ethiopian Embassy in Eritrea acknowledged that there had not been any forcible mass expulsion of Ethiopians from Eritrea since the start of the border conflict. In response to a question, the Eritrean Foreign Ministry official told us that the only Ethiopians in detention were those serving sentences for criminal convictions.

IV. RECOMMENDATIONS

In view of the above information, the following recommendations can be made:

1. Ethiopia must immediately cease all deportations of Ethiopians of Eritrean origin from Ethiopia. Eritreans who are not citizens of Ethiopia must not be deported without individualized judicial determinations unless there are compelling reasons of national security.
2. Eritreans and Ethiopians of Eritrean origin being held in detention camps in Ethiopia should be immediately released. Those who are accused of specific criminal offenses or who constitute genuine security risks must be brought to trial in accordance with international standards of due process.
3. The ICRC should be granted full access to all detention camps and information should be made available of the names of people being held in these camps.
4. Ethiopia and Eritrea should cooperate to facilitate the reunification of families separated through the deportation process.
5. A compensation commission should be established to compensate deportees for their confiscated property. This commission should be accessible both to individuals deported from Ethiopia as well as to any person leaving Eritrea who alleges that his or her rights have been violated as a result of action taken by the government of Eritrea.
6. Ethiopia should make reparations to Eritrea for the violation of diplomatic privileges and immunities.

Annex One – List of Interviewees

University of Asmara, August 3, 1998

S, 22 years, woman from Tigray region

GT, 21 years, woman from Addis Ababa

EA, 18 years, woman from Gojam

LN, 19 years, woman from Addis Ababa

HAT, 24 years, woman from Gojam

HS, 19 years, woman from Addis Ababa

YS, 22 years, woman from Addis Ababa

GG, 17 years, woman from Gojam

AT, 18 years, woman from Gonder

LD, 28 years, woman from Gonder

NA, 19 years, woman from Gonder

FH, 18 years, woman from Gonder

Mendefera Reception Center, August 4, 1998

TW, woman from Mekele, with children with her: RF, 5 years, girl; G, 8 years, girl; M, 12 years, girl

HW, 16 years, Eritrean woman temporarily in Addis Ababa

MN, 18 years, man from Addis Ababa

TH, 72 years, man from Tigray region

HO, 72 years, man from Addis Ababa

AT, 60 years, Eritrean man temporarily in Tigray region

HG, 55 years, man from Addis Ababa

BB, 73 years, man from Wollo region

SM, 39 years, man from Tigray region

AAK, 58 years, man from Tigray region

AG, 60 years, man from Tigray region

LH, 31 years, man from Tigray region

BG, 55 years, woman from Mekele

HG, 40 years, woman from Mekele; children with her: RT, 10 years, girl; DT, 7 years, boy

ZB, 46 years, woman from Addis Ababa; children with her: BH, 9 years, boy; RH, 10 years, girl

EB, 41 years, woman from Addis Ababa; children with her: YK, 14 years, boy; YK, 10 years, boy; TK, 8 years, boy; YK, 6 years, boy

TT, 48 years, woman from Addis Ababa

YG, 62 years, woman from Mekele

MT, 42 years, woman from Addis Ababa; children with her: FA and S, 13 year old twin girls

TG, 41 years, woman from Mekele; child with her: TW, 11 years, girl

MH, 55 years, woman from Mekele

KG, 40 years, woman from Tigray region

Woman from Addis Ababa (no other identity given)

Tessenay Reception Center, August 10, 1998

HKA, 38 years, man from Humera

TH, 35 years, man

HG, 28 years, man from Adi Geshu

MH, 31 years, man from Humera

MM, 65 years, man from Humera

ZS, 50 years, man from Addis Ababa

AT, 47 years, man from Humera

AA, 42 years, man from Humera; child with him: S, 5 years, girl

AH, 35 years, woman from Humera; children with her: H, 5 years, girl; H, 2 years, boy

Decamhare Reception Center, August 13, 1998

Interviews conducted in English:

AB, Eritrean man temporarily in Addis Ababa on student exchange

WG, man from Addis Ababa

RG, man from Addis Ababa

Student from Addis Ababa (no other identity given)

JG, 27 years, Eritrean woman temporarily in Addis Ababa

MS, man from Tigray region

Interviews conducted in Tigrigna:

AG, man from Addis Ababa

HF, 45 years, woman from Addis Ababa; child with her: 15 years, boy

AT, 49 years, man from Addis Ababa; children with him: four aged between 8 – 16 years

NG, 61 years, man from Addis Ababa; children with him: two aged 17 and 9

AH, 54 years, man from Addis Ababa; children with him: three girls, 13, 11 and 8 years

FBS, 43 years, man from Addis Ababa; children with him: three, 16, 12 and 8 years

AGT, 48 years, man from Addis Ababa; 6 children and wife with him (reunited at Center)

ZS, 40 years, man from Wollo region

Interviews in Badma region of families from border region, August 8, 1998

Woman, 23 years (no other identity given)

I, estimates he is between 50 and 60 years

Z, estimates he is between 50 and 60 years

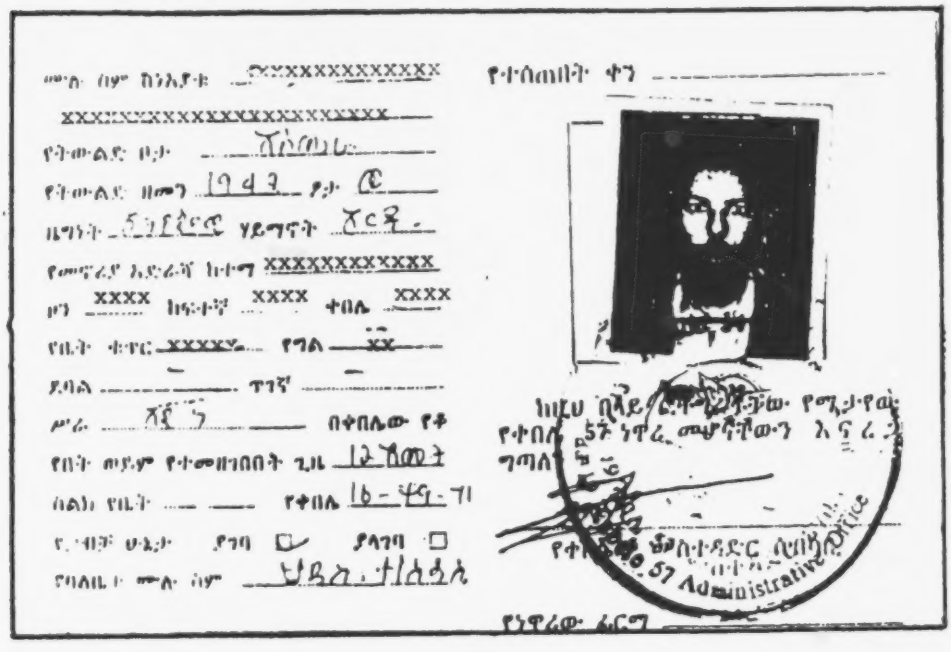
Y, estimates he is between 50 and 60 years

LT, woman

GT, man

F, woman

Annex II – Examples of Ethiopian identity documents held by deportees



TRANSLATION – Ethiopian Identity Card

This identification card is given to a person who lives in 57 Administrative Office.

Full name: XXXXXXXXXXX

Place of Birth: Asmara

Date of Birth: 1949

Sex: Male

Nationality: Ethiopian

Religion: Orthodox

Residence Address: XXXXXXXXX

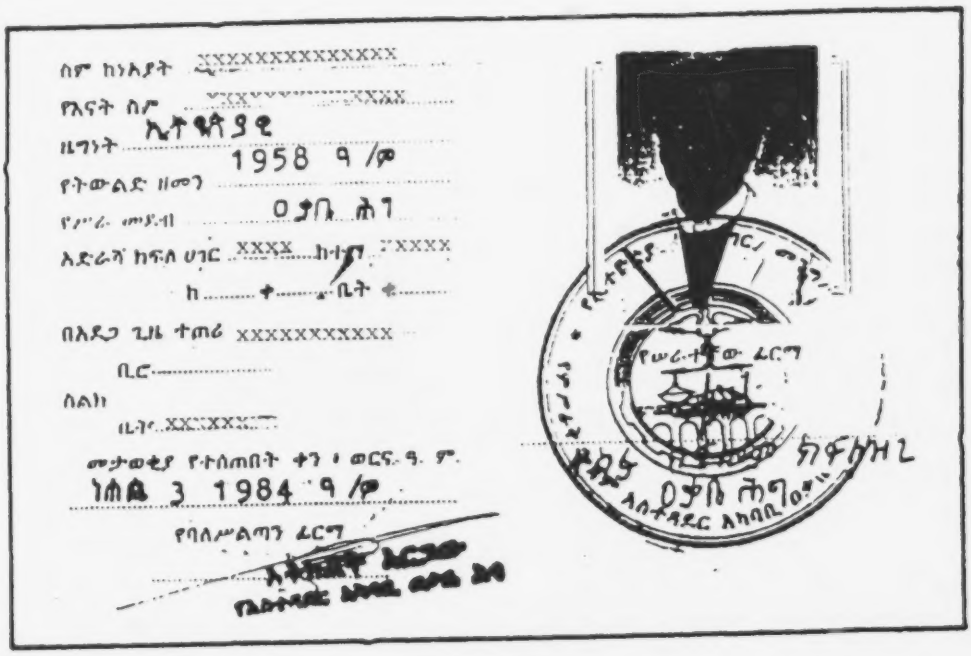
House Number: XXXX

Occupation: Agip Oil Company

The place He/She Lives: 12 Yearth

Zobas Telephone Number: XXXXXX

Marital Status: Married



TRANSLATION – Ethiopian Identity Card

Full name: XXXX

Mother's Name: XXXXXX

Nationality: Ethiopian

Date of Birth: 1965 [converted from Ethiopian calendar]

Occupation: Prosecutor

Address: XXXXXXXXXX

Contact in case of emergency: XXXX

Telephone Number: XXXXXX

Date of issue: August 10, 1991 [converted from Ethiopian calendar]

Issued by the Department of Justice, Federal Democratic Republic of Ethiopia, Western Gojam head office.